[ol. 101]

Bear Ja

No.	NAME OF EMPLOYEE		TITLE
1	Billingsley, J.R.	1	Warden
2	Davis, Floyd Jr.	3	Warden
3	Donaldson, Lee A.	5	Warden
4	Head, H.L.	1	Warden
5	Wilson, C.E.	4	Sr. Warden
6	Ramey, C.W.		Jail Phy.
7			
8			
9			
10			
11			
12			
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15			
16			
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19			
20			
21			

Form No. 16—

DUPLICATE COPY

RATI . REPORT OF JEFFERSON COUN . JAIL

Birmingham Division For Month Ending MAY 19 66

Amount of Groceries on hand as per inventory first of month	$	957.91
Amount of Groceries bought this month	$	7,862.07
Total to account for	$	8,819.98
Amount of inventory as per attached copy this date 19	$	959.49
Amount used this month	$	7,860.49
Total number of feed days for State Prisoners		13,372
Total number of feed days for Government Prisoners		762
Convicts transferred to State Road Camps		62
Dead Heads not chargeable to State		25
County Convicts working in County Jail		
Prison days not fed (Bond, etc.) State		
Total number of feed days this month		14,221
Average cost per day to feed	$	.5527
Amount of Feed Bill rendered the State of Alabama	$	8,892.95
Amount of Feed Bill rendered to the U. S. Government	$	1,714.50
Amount of Feed Bill rendered State Convicts in transit to State Camps	$	34.67
Amount of Feed Bill rendered Dead Heads not charged to State	$	13.95
Jefferson County Convicts in Jail	$	
TOTAL	$	10,656.10

[fol. 102]

RECAPITULATION

Total Feed days in Jail	14,221
State Jail days not fed	
Jefferson County Convicts fed	
Total Jail days	
Total Jail Feed days	

APPROVED:

Chief Deputy.

Warden.

Form No. 16—

DUPLICATE COPY

RATI . REPORT OF JEFFERSON COUN . JAIL

Birmingham Division For Month Ending MAY 19 66
AND
BESSEMER DIVISION

Amount of Groceries on hand as per inventory first of month		$ 957.91
Amount of Groceries bought this month		$ 9,370.21
Total to account for		$ 10,328.12
Amount of inventory as per attached copy this date	19	$ 959.49
Amount used this month		$ 9,368.63
Total number of feed days for State Prisoners		15,903
Total number of feed days for Government Prisoners		762
Convicts transferred to State Road Camps		62
Dead Heads not chargeable to State		25
County Convicts working in County Jail		
Prison days not fed (Bond, etc.) State		
Total number of feed days this month		16,752
Average cost per day to feed		$ .5592
Amount of Feed Bill rendered the State of Alabama		$ 8,892.95
Amount of Feed Bill rendered to the U. S. Government		$ 1,714.50
Amount of Feed Bill rendered State Convicts in transit to State Camps		$ 34,67
Amount of Feed Bill rendered Dead Heads not charged to State		$ 13.98
Jefferson County Convicts in Jail		$
	TOTAL	$ 10,656.10

RECAPITULATION

Total Feed days in Jail	16,752
State Jail days not fed	
Jefferson County Convicts fed	
Total Jail days	
Total Jail Feed days	

APPROVED:

Chief Deputy.

Warden.

[fol. 103]

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DUPLICATE COPY

Date JUNE 1, 19 66

Claim of MELVIN BAILEY, SHERIFF

Address JEFFERSON COUNTY COURTHOUSE

City BIRMINGHAM, ALABAMA

AGAINST THE COUNTY COMMISSION OF JEFFERSON COUNTY, ALA., ORDER NO.

This account must be itemized, showing the date of each sale, quantities, and price per unit. (Warrant will be mailed to address given above when claim is allowed.)

Date		ITEM	@	Amount	
MAY	66	FOR FEEDING INSANE AND JUVENILE PRISONERS IN	62	55.92	
		COUNTY JAIL:		34.67	
		SHERIFF'S ALLOWANCE: (		45.50	
		TOTAL		$80.17	
					[fol 104]
		Total Amount of Claim		$80.17	

The above items received O. K.

Prices verified and found correct

The above prices re-checked by Clerk.

The above account must be O. K.'d by the County's Agent receiving items listed and sworn to before a Notary Public before being filed for payment.

STATE OF ALABAMA,
Jefferson County.

Before me, (a Notary Public, in and for Jefferson County, Alabama) personally appeared the undersigned, who upon oath says that the above account is a just, correct and proper charge against Jefferson County, Alabama, and that no part thereof has ever been paid.

Sworn to and subscribed before me this the

day of 19 L. S.

N. P.

Standard Form No. 1034
7 GAO 5030
1034-106

DUPLICATE

PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL

Use continuation sheet(s) if necessary

D. O. VOU. NO. _____

BU. VOU. NO. _____

U. S MARSHAL'S OFFICE, JUSTICE DEPT. BIRMINGHAM, ALABAMA
(Department, bureau, or establishment)

PAID BY

Voucher prepared at _____
(Give place and date)

Payee's Account No. JIC-27748-12-1-63 Discount Terms _____

TO (Payee) MELVIN BAILEY
SHERIFF,
(Address) JEFFERSON COUNTY COURTHOUSE, BIRMINGHAM, ALA.

Contract No. _____ Date _____ Req. No. _____ Date Invoice Rec'd. _____
Shipped from _____ to _____ Weight _____ Govt. B/L No. _____

No. and Date of Order	Date of Delivery or Service	ARTICLES OR SERVICES (Enter description, item number of contract or Federal supply schedule, and other information deemed necessary)			Quantity	UNIT PRICE * Cost	UNIT PRICE * Per	AMOUNT *
MAY1966:		Acres, Johnny L.	4/4/66	to 5/4-66			4	
		Anders, Lyle Gary	2/23/66	" 5/31/66			31	
		Bailey, James	5/27/66	" 5/31/66			5	
		Batchelor, Allen	10/29/65	" 5/31/66			31	
		Booth, Gary Wayne	5/24/66	" 5/27/66			4	
		Bradley, E. Presley, Jr	4/18/66	" 5/31/66			31	
		Bramlett, Sandy Jr.	2/15/66	" 5/5/66			5	
		Camp, Alwin Lee	5/16/66	" 5/31/66			16	
		Clayton, Chester Roy	4/18/66	" 5/5/66			5	
		Elam, Venell Donald	5/2/66	" 5/5/66			4	
		Elrod, Edna Marie	5/28/66	" 5/29/66			2	
		Flowers, Robert Lee	5/2/66	" 5/31/66			30	
						TOTAL		

PAYMENT:
COMPLETE ☐
PARTIAL ☐
FINAL ☐
PROGRESS ☐
ADVANCE ☐

(PAYEE MUST NOT USE THIS SPACE)

DIFFERENCES _____

Amount verified; correct for _____
(Signature or initials) _____

† Approved for _____ =$ _____
By _____
Title _____
Exchange rate _____ =$1.00

Pursuant to authority vested in me, I certify that this voucher is correct and proper for payment.

† _____
(Authorized Certifying Officer) (Date)

THE REVERSE OF THIS FORM MUST BE EXECUTED WHEN PURCHASES ARE MADE OR SERVICES SECURED WITHOUT WRITTEN AGREEMENT IN ANY FORM

ACCOUNTING CLASSIFICATION (Appropriation Symbol must be shown, other classification optional)

Paid by
Check No. _____ on Treasurer of the United States
Check No. _____ on _____ (Name of Bank)
Cash, $ _____, on _____, 19____ Payee _____

Per _____

Title _____

* When used in foreign countries, insert name of currency of country in which used.

† If the ability to certify and authority to approve are combined in one person, one signature only is necessary; otherwise the approving officer will sign on the line below "Approved for $ _____", and give his official title.

[fol. 105]

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Standard Form No. 1035—Revised
Form prescribed by
Comptroller General, U. S.
September 7, 1950
(Gen. Reg. No. 81, Supp. No. 14)

DUPLICATE

Public Voucher for Purchases and Services Other Than Personal

CONTINUATION SHEET

U. S. MARSHALL'S OFFICE, BIRMINGHAM, ALA. Sheet No. TWO of Bureau Voucher No. .....
(Department, bureau, or establishment)

No. and Date of Order	Date of Delivery or Service	ARTICLES OR SERVICES (Enter description, item number of contract or Federal supply schedule, and other information deemed necessary)			QUANTITY	UNIT PRICE Cost	UNIT PRICE Per	AMOUNT Dollars	AMOUNT Cts.
MAY 1966:		Garner, Truman J.	5/31/66	to 5/31/66			1		
		Gilbreath, Clyde	11/2/66	" 5/31/66			31		
		Goodman, Shirley M.	5/6/66	" 5/20/66			15		
		Guthrie, James H.	5/13/66	" 5/31/66			19		
		Harris, Eddie Richard Jr.	12/28/65	" 5/5/66			5		
		Haynes, Jimmy Rogers	5/10/66	" 5/23/66			14		
		Jenkins, Robert Will	5/13/66	" 5/31/66			19		
		Johnson, Robert	5/18/66	" 5/23/66			6		
		Kilpatrick, Brady	5/15/66	" 5/16/66			2		
		Kimmons, Frederick	4/4/66	" 5/10/66			10		
		King, Gary	5/18/66	" 5/23/66			6		
		Kirk, Amos	5/2/66	" 5/5/66			4		
		Klasek, Janet L.	4/6/66	" 5/31/66			31		
		Lake, Herbert James	5/12/66	" 5/31/66			20		
		Lalumandier, Stephen E.	12/1/66	" 5/26/66			26		
		Lipscomb, Jefery Leon	4/18/66	" 5/4/66			4		
		Lusby, Jesse H.	5/16/66	" 5/31/66			16		
		Marlow, Elbert	5/25/66	" 5/26/66			2		
		Martin, Gary Dwight	5/31/66	" 5/31/66			1		
		Melvin, James W.	5/6/66	" 5/11/66			6		
		Miller, Daniel Wayne	5/2/66	" 5/11/66			10		
		Nelson, Claude	5/13/66	" 5/31/66			19		
		O'Neal, John T.	4/18/66	" 5/31/66			31		
		Ort, Harry Dewitt III	5/31/66	" 5/31/66			1		
		Pike, Robert E.	5/27/66	" 5/31/66			5		
		Roland, Lawrence Edward	5/29/66	" 5/31/66			3		
		Sanford, Don	5/15/66	" 5/16/66			2		
		Schnock, Virgil L.	4/6/66	" 5/31/66			31		
		Scooley, Ralph E.	5/11/66	" 5/16/66			6		
		Sholders, Leland D.	4/29/66	" 5/31/66			31		
		Short, Fred James	5/31/66	" 5/31/66			1		
		Smith, Hershell	5/26/66	" 5/31/66			6		
		Snider, Billy Wayne	5/17/66	" 5/31/66			15		
		Spigner, James	5/26/66	" 5/31/66			6		
		Stewart, Jerry D.	3/10/66	" 5/3/66			3		
		Stringer, Danny Thomas	5/21/66	" 5/31/66			11		
		Thomas, Raymond J.	5/21/66	" 5/31/66			11		
		Thomas, Willard G.	5/16/66	" 5/31/66			16		
		Tidwell, Grover L.	4/20/66	" 5/11/66			11		
		Troglen, Curtis	5/16/66	" 5/31/66			16		
		Turner, John H.	4/21/66	" 5/4/66			4		
		Turner, Leroy	5/3/66	" 5/31/66			29		
		VanArtsdalen, Clifford	5/21/66	" 5/31/66			11		
		Vines, Waymon	5/25/66	" 5/26/66			2		
		Wade, Edward James	5/31/66	" 5/31/66			1		
		Warren, James Mac	4/3/66	" 5/5/66			5		
		Wedemeyer, George	5/4/66	" 5/31/66			28		

U. S. GOVERNMENT PRINTING OFFICE 16—72946-1

[fol. 106]

DUPLICATE COPY

Standard Form No. 1035—Revised
Form prescribed by
Comptroller General, U. S.
September 7, 1956
(Gen. Reg. No. 81, Supp. No. 11)

Public Voucher for Purchases and Services Other Than Personal

CONTINUATION SHEET

U.S. MARSHALL'S OFFICE, BIRMINGHAM, ALABAMA (Department, bureau, or establishment) Sheet No. THREE of Bureau Voucher No. .....

No. and Date of Order	Date of Delivery or Service	ARTICLES OR SERVICES (Enter description, item number of contract or Federal supply schedule, and other information deemed necessary)	QUANTITY	UNIT PRICE Cost	UNIT PRICE Per	AMOUNT Dollars	AMOUNT Cts.
966:		WEST, CREVEL 5/23/66 to 5/31/66			9		
		Wheeler, Jack D. 3/31/66 " 5/26/66			26		
		William, Franklin 5/13/66 " 5/16/66			4		
		Wood, Carlton Wayne 5/2/66 " 5/3/66			2		
		TOTAL	762	2.25		$1,714	.50

U. S. GOVERNMENT PRINTING OFFICE : 16-82613-1

[fol. 107]

[fol. 108]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
(NORTHERN DIVISION)
Civil Action No. 2350-N

[Title omitted]

ANSWERS OF DEFENDANT, ROBERT K. AUSTIN, WARDEN OF THE CITY JAIL OF BIRMINGHAM, ALABAMA, TO INTERROGATORIES PROPOUNDED TO HIM BY PLAINTIFFS—Filed June 25, 1966

Comes the above named defendant and, for answer to interrogatories propounded to him by plaintiffs, says as follows:

(1). City of Birmingham, Alabama.

(2). Jamie Moore, Chief of Police.

(3). Avenue F Prison (City Jail), 517 7th Avenue, South, Birmingham, Alabama.

(4) As stated in answer to interrogatory (6), no persons are employed by me as warden of the City Jail of Birmingham. As Chief Warden of the Avenue F Prison (City Jail) of Birmingham, I have supervision over the following:

Four Senior Wardens: Leland A. Holcomb, James R. Johnston, Charles T. Lamar and Cecil H. Prickett;

Twenty-four Wardens: Charles C. Acker, Alfred W. Adair, Walter E. Ambrose, Ronnie M. Bedford, Mark T. Berry, J. T. Black, James L. Boggan, Jack T. Brand, Howard T. Calton, Jimmie M. Dennis, Morris J. Ellis, William H. Goddard, Perry V. Harlow, William L. Jones, Howard E. Knox, Leon G. Medlock, Ignatus J. Milazzo, Hugh D. Nichols, Robert E. Price, Raoul L. Serrano, Jr., Oscar T. Underwood, William R. Whatley, Frank E. Williamson, Sr., John E. Yeager:

[File endorsement omitted]

Four Jail Matrons: Bertha A. Scott, Margaret L. Snider, Charlene G. Thornton, Nellie G. Williams;

One Senior Maintenance Mechanic, Robert H. Brown;

[fol. 109] One carpenter: Earnest M. Tidwell;

One Farm Supervisor: Charles H. Fredrick.

The entire force employed at the Avenue F Prison (City Jail) is a part of the Police Department of the City of Birmingham under the direct supervision of the Chief of Police as above stated. At the present time Negroes are employed in some of the divisions of the Police Department but presently none are employed at the prison or jail. The method of employment of personnel throughout the Police Department, including those having duties at the City Prison or jail, is through the Personnel Board of Jefferson County as hereinafter more fully stated in answer to Interrogatory (6). The difficulty in obtaining qualified applicants on the rosters from which vacancies are required to be filled by State Law, as I am informed, has been the reason for the failure to employ more Negroes in the Police Department. As hereinafter stated in answer to interrogatory (6), the Chief of Police, as department head, is responsible for all employment of personnel in the Police Department.

(5) This interrogatory is answered. See answer to interrogatory (4).

(6) The operation of Birmingham City Jail or prison is a part of the operation of the Police Department, the direct head of which is the Chief of Police. The Chief Administrative officer of the City is the Mayor. Every person in the Police Department and all other departments of the City are subject to the provisions of the Jefferson County Civil Service Law with respect to hiring and also firing. This procedure is pursuant to Act 248, Legislation of Alabama 1945, as amended, and under rules and procedures adopted by the Personnel Board of Jefferson County, created by said Act as amended.

(a) I am informed the procedure followed in the recruitment of personnel for the entire Police Department, including wardens, matrons and other employees of the jail, patrolmen and others requires an examination conducted by the Personnel Board at intervals to provide a roster from which names are certified for employment as needed. New examinations are given as the rosters become depleted. The first step in recruitment is to encourage eligibles to take the examination. I am reliably informed the City has made a determined and thorough effort over a period of several years to recruit Negroes for employment in the Police Department. Recently several have been employed as patrolmen. The roster for that position is full at present and contains the names of both whites and Ne- [fol. 110] groes from which future needs will be filled. To illustrate the effort made to obtain members of that race on such roster, and from which those now serving on the Police Force were selected, I am reliably informed the City of Birmingham, acting through its Mayor and other city officials, with the assistance of the Birmingham Chamber of Commerce, local Negro leaders, industrial leaders and other citizens widely distributed among Negroes, and especially those having the necessary qualifications, a brochure inviting all to take the necessary examination, regardless of race, color, religion or national origin. A true copy of such brochure, of which two or three thousand were distributed, is attached hereto and made a part hereof. Also attached and made a part hereof is a true copy of a letter written by the Birmingham Area Chamber of Commerce, distributing copies of such brochure to all of its members, Negro and white. Newspaper, radio and T.V. advertising were also used by the Personnel Board to encourage Negroes to apply for such examinations. The card filled out by each applicant to any examination conducted by the Personnel Board contains the following statement: "The Jefferson County Personnel Board provides for a public personnel system based on merit principles. It strives for the constant improvement of the public

service by employing and developing the best qualified people available, regardless of their race, color, creed, political beliefs or national origin." A true and correct replica of this card is attached hereto and made a part of this answer.

Under the law and under the rules of the Personnel Board, all vacancies for positions in the Police Department and other departments of the City are filled by selection from the rosters established in the manner above set forth. Final appointment is made by the Mayor upon recommendation of the Department head, the Chief of Police, in the case of the Police Department.

(b) All positions are filled and assignments made in the manner above set forth. However, jail matrons are selected from the roster of practical nurses, which said roster is filled in the manner above set forth. All rosters, of every position, are filled from examinations given without racial discrimination, as above stated.

(c) Discharge of employees is likewise only for cause, and under the Law and Rules cannot be effected without a hearing, after due notice of the charge, served upon the employee. The hearing is before the Personnel Board and review in the Circuit Court and Supreme Court is provided by the law, above mentioned.

[fol. 111] (7) (a) Yes, but have not given the same any particular thought.

(b) In the operation of the Birmingham City Jail, which is under my supervision, I have separated Negro and white prisoners because, in my opinion, it is necessary to do so in order to maintain the internal security of this prison or jail and protect the prisoners and others from bodily harm.

(8). (a) I was never consciously aware of this section until I read it in these interrogatories.

(b) My policy of separation of prisoners is stated in (7) (b), above.

(c) No.

(9). To the extent stated in (7) (b).

(10). All such facilities are used by both white and Negro prisoners. As stated above, it is my policy to separate white and Negro prisoners for reason contained in my answer to (7) (b) above; however, all facilities are used interchangeably.

(11). Please see answer to (7)(b).

(12). Please see answer to (7)(b).

(13). I have no authority over the construction of the Birmingham prison or jail. Such jail contains more than four separate apartments but they are used interchangeably as stated in answer to (7)(b), and (10).

(14). As stated in answer to (13), I have no authority over the construction of the Birmingham prison or jail or the facilities therein. I do supervise the proper cleaning of the jail; also please see my answer to interrogatory (13).

(15). (a) I am informed that it is.

(b) I do furnish a monthly report which lists by color, sex and age the number of prisoners confined in such jail, according to the offense charged. Only figures appear in such report with no names of prisoners given. The report for May, 1966, shows a total of 2021 prisoners for that month.

[fol. 112] (c) A copy of this report is attached hereto.

(16). (a) This section of the Alabama Code does not have application to other than County Jails and I am Chief Warden of the City prison or jail.

(b) There is no contract of this nature inquired about in existence.

(c) (d) (e) Answered, in (a) and (b).

(17). (a) No. This has never been done to the extent of my knowledge, which covers the past 29 years.

(b) (c) (d) and (e). See (a).

Robert K. Austin

Duly sworn to by Robert K. Austin (Jurat omitted in printing).

Certificate of Service (omitted in printing).

BIRMINGHAM AREA CHAMBER OF COMMERCE
1914 6th AVENUE NORTH · BIRMINGHAM, ALABAMA
35203

August 6, 1965

To the Membership

Enclosed is a pamphlet published by the City of Birmingham to interest people in a career in the Birmingham Police Department. As you know, the City has been endeavoring to fill vacancies in its Police Force for both white and Negro personnel.

This pamphlet is forwarded to you in the hope that you will bring it to the attention of your Personnel Department and encourage them to render the Mayor's office assistance by encouraging applicants who pass through your Personnel Department in excess of your needs to consider the opportunities available to them through a career in the Birmingham Police Department.

The Chamber has been endeavoring over many months to serve the City by cooperating with the Mayor's office in this matter. Anything you can do in this connection as a member of the Chamber will be a distinct service to the City.

Sincerely,

Crawford T. Johnson, III

Crawford T. Johnson, III
President

Enclosure

he extent of
Austin
t omitted in

[fol. 114]

As this folder says, a policeman's career is a real opportunity for the man who is physically fit, mentally alert and morally strong.

A guaranteed financial security on service retirement is not the only reward.

A policeman is looked up to with respect -- in his own neighborhood where his family lives -- in the times when he is a badly needed friend and rescuer -- in the times when he shows others the way to safety and respect for the law.

Promotions, for the policeman who works at it, are regular. The higher ranks of detective, sergeant, lieutenant and captain carry with them higher rank and higher pay. And, many a policeman goes on to other careers in law enforcement, in military service, in industrial security jobs and to other highly rewarding and satisfying lives.

Birmingham has a police force to be proud of and its uniform is respected everywhere. Because men are being promoted . . . because others are retiring on well earned pensions . . . because still others, because of their excellent records and training are being hired by private industry, Birmingham constantly needs police recruits.

If you are qualified physically, mentally and morally, investigate a career in law enforcement now. It could be the best decision you ever made. Do it today. Your City wants and needs you.

Sincerely yours,

Albert Boutwell

Mayor

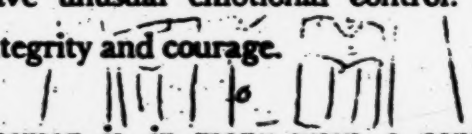
BADGE OF HONOR

A CAREER YOU CAN BE PROUD OF

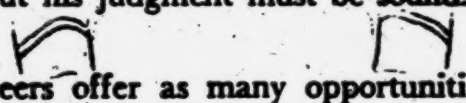
[fol. 115]

The BIRMINGHAM POLICE DEPARTMENT needs more men, but it takes a special person to be a good police officer. Are YOU one of these special people?

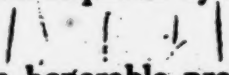
A Policeman is a community leader. He must be mentally alert, be in superior physical condition and have unusual emotional control. He must have integrity and courage.



A Policeman is, in many ways, a contradiction. He must be firm but gentle; quick to act, slow to anger; curious but silent. He must make fast decisions but his judgment must be sound.



Few careers offer as many opportunities for so many valuable contributions to the community. The man who is given such authority and entrusted with badge and gun, has the mark of leadership. Applications are received by the Personnel Board of Jefferson County, and examinations are given and graded without regard to an applicant's race, color, religion or national origin, as are all other applications and as required by law.



Police work is an honorable profession, with improving pay and excellent working conditions. It is a work in which you *and your family* can take real pride in your entering. Do it today.

A rookie in the BIRMINGHAM POLICE DEPARTMENT is given extensive training at the new Police Academy; his uniforms are furnished. His beginning rate of pay is $413. The maximum for Patrolman is $501.

All positions in the Department from Patrolman to Police Chief are filled by competitive examination since the Police Department is under the protection of the county-wide Civil Service System.

Other benefits of a police career are:

Automatic salary increases
Two weeks paid vacation per year
Paid sick leave
A sound pension plan

In order to get suitable candidates, certain minimum standards have been established. These requirements cannot be waived.

EDUCATION:	High school graduation or completion of 10th grade plus a G.E.D. certificate.
AGE:	Minimum--21; Maximum--33
HEIGHT:	5'8" to 6'4" (weight must be in proportion to height)
PHYSICAL:	Class A medical standards must be met
EXPERIENCE:	No experience is required.

WHEN AND WHERE TO APPLY

If you are interested in a police career, contact the Civil Service office; Room 301-A Courthouse Annex, Birmingham, Alabama; Telephone: 323-5311, Ext. 381.

Examinations are held twice a month; applications are issued Monday through Friday.

IDENTIFICATION NUMBER

APPLICATION NUMBER

EXAMINATION APPLICATION CARD
THE PERSONNEL BOARD OF
JEFFERSON COUNTY, ALABAMA
Room 301 Courthouse Annex, Birmingham
Phone 323-5311

NOT ELIGIBLE (SEE REVERSE SIDE) ☐

ELIGIBLE (SEE BELOW) ☐

FILING DATE (MO.) (DAY) (YEAR)

PRINT ALL INFORMATION REQUESTED ON BOTH CARDS, THEN SIGN THIS UPPER CARD ON THE BACK. DO NOT MARK ANY ITEM TO THE RIGHT OF THE DOUBLE LINES.

CLASS TITLE

NAME FIRST MIDDLE: MAIDEN LAST

ADDRESS

CITY & ZIP CODE STATE

THIS CARD MUST BE PRESENTED TO BE ADMITTED TO EXAM. YOU ARE ELIGIBLE TO COMPETE ON THE WRITTEN EXAMINATION WHICH WILL BE HELD:

QUALIFIED ☐ DID NOT QUALIFY (SEE REVERSE SIDE) ☐

TOTAL GRADE

POSITION ON ELIGIBLE LIST

Identification No.

Application No.

EXAMINATION APPLICATION CARD
THE PERSONNEL BOARD OF
JEFFERSON COUNTY, ALABAMA
Room 301 Courthouse Annex, Birmingham
Phone 323-5311

NOT ELIGIBLE ☐

ELIGIBLE ☐

(MO.) (DAY) (YEAR)

PERSONNEL USE ONLY

SENIORITY CREDIT (PROMOTIONAL ONLY)

DATE POINTS

CLASS TITLE

AGE

NAME

HOME PHONE

ADDRESS

CITY & ZIP CODE

MALE ☐

FEMALE ☐

DRIVER'S LICENSE ☐ NO. _____ Date Issued _____

WILL CANDIDATE ACCEPT TEMPORARY EMPLOYMENT?

1 MO. ☐
3 MO. ☐
6 MO. ☐

EXAM DATE _____

APPROVED _____

GRADE POSITION ON LIST

REFERAL RECORD

DATE	DEPT.	COMMENTS

(X)

	YES	NO	
HEIGHT (INCHES)_____	☐	☐	
WEIGHT (LBS.)_____	☐	☐	
PERFORMANCE TESTS			
TYPING (WPM)_____	☐	☐	_____
STENO (SCORE)_____	☐	☐	_____
OTHER _____	☐	☐	_____

DID NOT QUALIFY

1. ☐ LACK OF LICENSE OR REGISTRATION
2. ☐ AGE
3. ☐ EDUCATION
4. ☐ EXPERIENCE
5. ☐ STATUS
6. ☐ EFFICIENCY RATING
7. ☐ HEIGHT OR WEIGHT
8. ☐ INCOMPLETE APPLICATION
9. ☐ OTHER _____

THE JEFFERSON COUNTY PERSONNEL BOARD PROVIDES FOR A PUBLIC PERSONNEL SYSTEM BASED ON MERIT PRINCIPLES. IT STRIVES FOR THE CONSTANT IMPROVEMENT OF THE PUBLIC SERVICE BY EMPLOYING AND DEVELOPING THE BEST QUALIFIED PEOPLE AVAILABLE, REGARDLESS OF THEIR RACE, COLOR, CREED, POLITICAL BELIEFS OR NATIONAL ORIGIN

OPEN-COMPETITIVE

Competitive examinations furnish lists from which qualified candidates are chosen to fill vacancies.

Appointment shall be made from top 3 persons on the list.

Candidates are fingerprinted and will be required to pass a medical examination prior to appointment, as well as a strict background investigation.

Permanent employment status is granted after 1 year.

Group medical insurance is offered. Employees earn 2 weeks vacation and 2 weeks sick leave each year, plus paid holidays.

In general, standard payroll deductions are made for social security, withholding tax, and pension.

Promotional positions are filled when possible by competitive tests from within the service.

Pay increases are granted at specific intervals on a merit basis within established pay grades.

PROMOTIONAL-COMPETITIVE

Employees with permanent status in an appropriate lower class are eligible, provided they qualify on additional requirements shown on the announcement.

Qualified employees who pass written tests will be given seniority credit for satisfactory service to a maximum of 20 years.

Applicants passing the written test will be placed on an eligible list according to their test score.

The appointing authority shall appoint top person on list if he is in the department to fill a vacancy. Otherwise, Rule of 3 applies.

Employees will serve a one year probationary period at which time they will receive permanent status.

Employees with unsatisfactory probationary service may be demoted to their previous classification at the discretion of the department.

SIGNATURE

TESTS RESULTS ARE CONFIDENTIAL. FOR YOUR PRIVACY GRADE INFORMATION MAY NOT BE DISCUSSED ON THE TELEPHONE. A PERSONAL INTERVIEW IS REQUIRED FOR INFORMATION ON EXAMINATION RESULTS, WITHIN 30 DAYS OF THIS NOTIFICATION OF YOUR GRADE.

You did not achieve a qualifying score on the

- ☐ WRITTEN TEST
- ☐ PERFORMANCE TEST
- ☐ ORAL INTERVIEW
- ☐ UNASSEMBLED EXAMINATION

SCORE _____

You are not eligible for appointment because of:

1. ☐ Lack of license or registration
2. ☐ Age
3. ☐ Education
4. ☐ Experience
5. ☐ Status
6. ☐ Efficiency Rating
7. ☐ Height or Weight
8. ☐ Incomplete Application
9. ☐ Other

[fol. 117]

[fol. 118]

MONTHLY REPORT

AVENUE F. PRISON

BIRMINGHAM, ALABAMA

MAY 1966

Gentlemen:

Submitted herewith is the Monthly STATISTICAL Report of the AVENUE F. PRISON.

RECAPITULATION

AGE GROUP	16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65+	TOTAL	GRAND TOTAL
Misdemeanors	14	32	51	32	32	41	30	26	31	130	165	164	182	179	121	91	43	40		1404
Traffic Violations	7	11	16	15	12	10	13	14	13	53	49	57	39	46	28	18	6	10		417
Delivered to Sheriff	5	11	9	15	5	6	5	3	2	18	7	6	7	1	1	0	2	0		103
Delivered to Juvenile Court	1	0	0	0	0	0	0	0	0	2	2	1	0	1	0	0	0	0		7
Delivered to U. S. Marshall	0	0	1	0	0	1	0	0	0	2	1	1	0	0	1	0	0	0		7
Delivered to other Jurisdiction																				
Military	0	0	4	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0		9
Investigated & Rel.	6	8	8	5	4	1	2	6	0	13	9	4	6	1	0	0	1	0		74
TOTAL	33	62	89	72	53	59	50	49	46	218	233	233	234	228	151	109	52	50		2021

Respectfully Submitted

R. K. Austin

R. K. AUSTIN
CHIEF WARDEN

MISDEMEANORS CHARGE	COLOR AND SEX	AGE GROUPS 16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 +	TOTAL
Assault & Battery	W.M.		1	1			1					1					1			5
	W.F.																			
	B.M.		1	3	8	1	1	1		1	4	4		2		1				20
	B.F.										1									1
TOTAL			2	4	1	1	2	1		1	5	5		2		1	1			26
Assault with a	W.M.																			
Weapon	W.F.																			
	B.M.						2				1	1								4
	B.F.						1	1			1									3
TOTAL							3	1			2	1								7
Carrying a	W.M.	1											1							1
Concealed Weapon	W.F.												1							1
	B.M.	1	2	1	1		1				1									7
	B.F.					1														1
TOTAL		2	2	1	1	1	1				1		1							10
City Escape	W.M.					1						3	2	1	2	1	1			11
	W.F.																			
	B.M.		3			2					2	1	2	1	1		1			13
	B.F.																			
TOTAL			3			3					2	4	4	2	3	1	2			24
Disorderly	W.M.		2	2	1			1	1	3	4	2	2		4		1	1	2	26
Conduct	W.F.			1			1			1				1	1					5
	B.M.	1	1	2	1	2	1		2	1	2	7	1	2	3	1	1	1		29
	B.F.			2								2	2			1	2		1	10
TOTAL		1	3	7	2	2	2	1	3	5	6	11	5	3	8	2	4	2	3	70
Drunk	W.M.	2	4	4	3	4	6	2	4	8	30	26	39	72	64	47	40	18	16	389
	W.F.						1			1	1	5	5	7	5	4				29
	B.M.	1	4	14	12	7	14	15	10	6	41	51	68	62	61	47	23	17	13	466
	B.F.		1			1	2		1	1	2	11	9	7	10	5	6			56
TOTAL		3	9	18	15	12	23	17	15	16	74	93	121	148	140	103	69	35	29	940

CHARGE	COLOR AND SEX	AGE GROUPS 16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 +	TOTAL
Viol. State	W.M.														1					1
Firearms Act	W.F.																			
	B.M.	1	1					1		1	1		2	3						10
	B.F.										1						1			2
TOTAL		1	1					1		1	2		2	3	1		1			13
Presenting	W.M.																			
Firearms at	W.F.																			
Another	B.M.			1					1						1					3
	B.F.																			
TOTAL				1					1						1					3
Discharging	W.M.																			
Firearms in	W.F.																			
City Limits	B.M.										1	1					1			3
	B.F.																			
TOTAL											1	1					1			3
Issuing	W.M.																			
Worthless Checks	W.F.																			
	B.M.																			
	B.F.											1								1
TOTAL												1								1
Minor in	W.M.	2	7	8	6	3														26
Possession of	W.F.																			
	B.M.	1				1														
	B.F.																			
TOTAL		3	7	8	6	4														
Drinking in	W.M.																			
Public	W.F.																			
	B.M.										1									1
	B.F.																			
TOTAL											1									1

Prison - 1

CHARGE	COLOR AND SEX	AGE GROUPS 16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 +	TOTAL
Disorderly	W.M.					2		1			1	4	2	1			1			12
Conduct	W.F.																			
(Sex Pervert)	B.M.			1			1				1									3
	B.F.																			
TOTAL				1		2	1	1			2	4	2	1			1			15
Loitering After	W.M.																			
Warning	W.F.																			
	B.M.														1					1
	B.F.																			
TOTAL															1					1
Operating Gaming	W.M.																			
House	W.F.																			
	B.M.																1			1
	B.F.																			
TOTAL																	1			1
Resisting Arrest	W.M.			2		1					2	2	1		3	1			1	13
	W.F.																			
	B.M.										3	1		1						5
	B.F.																			
TOTAL				2		1					5	3	1	1	3	1			1	18
Begging On	W.M.																			
Street	W.F.																			
	B.M.																			
	B.F.															1				1
TOTAL																1				1
Viol. Liquor	W.M.				1		1						2		1	1	1			7
Law	W.F.																			
	B.M.		1	1			1	1		1	4	3	3	3	5	1	2		2	28
	B.F.							1			2			1		1	1			6
TOTAL			1	1	1		2	2		1	6	3	5	4	6	3	4		2	41

CHARGE	COLOR AND SEX	AGE GROUPS 16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 +	TOTAL
Visiting Illegal Drinking Place	W.M.																			
	W.F.																			
	B.M.			1		1		1		1	2	5	3	3	1			3		21
	B.F.										1	2	2	2		2	1			10
TOTAL				1		1		1		1	3	7	5	5	1	2	1	3		31
Visiting Disorderly House	W.M.																			
	W.F.																			
	B.M.																			
	B.F.						1			1		1								3
TOTAL							1			1		1								3
Refusing to Pay Licensed House	W.M.										1			1						2
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL											1			1						2
Viol. Lottery Law	W.M.																			
	W.F.																			
	B.M.																			
	B.F.												1					1		2
TOTAL													1					1		2
Affray	W.M.			1		3	1	1	1			1								8
	W.F.																			
	B.M.												1							1
	B.F.								1		1	1		1	1					5
TOTAL				1		3	1	1	2		1	2	1	1	1					14
Trespassing after Warning	W.M.														1		1			2
	W.F.																			
	B.M.											1								1
	B.F.																			
TOTAL												1			1		1			3

TRAFFIC CHARGE	COLOR AND SEX	AGE GROUPS 16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 +	TOTAL
Driving Car	W.M.	1		2	4	1	4	2	3	7	15	20	24	14	16	7	9	4	5	138
While Intoxicated	W.F.										1		2	2	4	1	1			11
	B.M.	1	2	1		3	2	1	1	2	15	12	12	11	15	14	4	2	3	101
	B.F.																			
TOTAL		2	2	3	4	4	6	3	4	9	31	32	38	27	35	22	14	6	8	250
Reckless Driving	W.M.		4	1	7		1	1		1	8	3	2	1	3		1			33
	W.F.																			
	B.M.	1	1	2	2		1	2	2			1	4	4	2	2			1	25
	B.F.								1											1
TOTAL		1	5	3	9		2	3	3	1	8	4	6	5	5	2	1		1	59
No State	W.M.	1	1	1	1	2		1		1	3		1			1				11
Drivers License	W.F.																			
	B.M.		2	4		5	1	3	2	2	2	4	5	1	3	3	2		1	40
	B.F.			2				1												3
TOTAL		1	3	7	1	7	1	5	2	3	5	4	6	1	3	4	2		1	56
Speeding	W.M.			1				1			1			1						3
	W.F.																			
	B.M.			1					1		3	1		1	1					8
	B.F.																			
TOTAL				2				1	1		4	1		1	1					11
Allowing	W.M.						1		1			1								3
Unauthorized	W.F.																			
Person to Drive	B.M.			1								1	4	3						9
	B.F.																			
TOTAL				1			1		1			2	4	3						12
Motor & Traffic	W.M.					1														1
Viola.	W.F.							1												
	B.M.							1			2		1		1					5
	B.F.																			
TOTAL						1		1			2		1		1					6

CHARGE	COLOR AND SEX	AGE GROUPS 16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 +	TOTAL
Possession of	W.M.										1	1	1	1	1					5
Car While	W.F.																		1	1
Intoxicated	B.M.												1							1
	B.F.											1								
TOTAL											1	2	2	1	1					7
Failing to	W.M.		3	1								1		1						6
Report an	W.F.																			
Accident	B.M.				1				3		2	3								9
	B.F.																			
TOTAL			3	1		1			3		2	4		1						15
Driving While	W.M.																			
Under Suspension	W.F.																			
	B.M.																1			1
	B.F.																			
TOTAL																	1			1
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				

Prison - 1

DEL. TO SHERIFF CHARGE	COLOR AND SEX	AGE GROUPS 16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 +	TOTAL
Assault with	W.M.																			
Intent to	W.F.																			
Murder	B.M.		1	1	1	1						1		1	1					7
	B.F.							2						1		1				4
TOTAL			1	1	1	1		2				1		2	1	1				11
Burglary	W.M.											1		1						2
	W.F.																			
	B.M.		1	1	1								1							4
	B.F.																			
TOTAL			1	1	1							1	1	1						6
Burglary and	W.M.			1	2		1													4
Grand Larceny	W.F.																			
	B.M.		1	2	4	2		1	1		2	1	1					1		16
	B.F.								1		1									2
TOTAL			1	3	6	2	1	1	2		3	1	1					1		22
Grand Larceny	W.M.		1		1		1			1	1									5
	W.F.																			
	B.M.	2	4				1	1		1	2	1	1					1		14
	B.F.							1												1
TOTAL		2	5		1		2	2		2	3	1	1					1		20
Grand Larceny of	W.M.	1		1	2				1		2	2	1							10
Auto	W.F.																			
	B.M.	1	2	1	2						1									7
	B.F.																			
TOTAL		2	2	2	4				1		3	2	1							17
Murder	W.M.																			
	W.F.																			
	B.M.																			
	B.F.												1							1
TOTAL													1							1

CHARGE	COLOR AND SEX	AGE GROUPS 16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 +	TOTAL
Rape	W.M.				1															1
	W.F.																			
	B.M.	1																		1
	B.F.																			
TOTAL		1			1															2
Robbery	W.M.																			
	W.F.																			
	B.M.		1																1	1
	B.F.																			
TOTAL			1																	1
Forgery	W.M.													1						1
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL														1						1
Nighttime	W.M.										2									2
Burglary of	W.F.																			
Inhabited	B.M.						2				2	1								5
Dwelling	B.F.																			
TOTAL							2				4	1								7
Viol. Narcotic	W.M.										2									2
Law	W.F.										1									1
	B.M.			1	1	1					1		1	1						6
	B.F.																			
TOTAL				1	1	1					4		1	1						9
Demented	W.M.										1									1
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL											1									1

Prison-1

CHARGE	COLOR AND SEX	AGE GROUPS 16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 +	TOTAL
Assault &	W.M.													1						1
Battery	W.F.																			
	B.M.																			
	B.F.																			
TOTAL														1						1
Probation Viol.	W.M.						1							1						2
	W.F.																			
	B.M.			1		1														2
	B.F.																			
TOTAL				1		1	1							1						4
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				

DEL. TO JUVENILE CHARGE	COLOR AND SEX	AGE GROUPS																		
		16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 +	TOTAL
Contributing to	W.M.										1									1
Delinquency of	W.F.											1								1
Minor Child	B.M.										1									1
	B.F.											1								1
TOTAL											2	2								4
Desertion &	W.M.												1							1
Non Support	W.F.																			
	B.M.																			
	B.F.																			
TOTAL													1							1
Grand Larceny of	W.M.																			
Auto	W.F.																			
	B.M.	1																		1
	B.F.																			
TOTAL		1																		1
Breach of Peace	W.M.														1					1
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL															1					1
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				

Del. to U.S. Marsh. CHARGE	COLOR AND SEX	AGE GROUPS 16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 +	TOTAL
Possession of Counterfiet Money	W.M.										2									2
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL											2									2
Grand Larceny of Auto	W.M.						1													1
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL							1													1
Buying, Receiving & Concealing Stolen Property	W.M.															1				1
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																1				1
Theft of Interstate Shipment	W.M.																			
	W.F.																			
	B.M.											1	1							2
	B.F.																			
TOTAL												1	1							2
Grand Larceny	W.M.																			
	W.F.																			
	B.M.			1																1
	B.F.																			
TOTAL				1																1
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				

Prisons-1

DEL. TO MILITARY CHARGE	COLOR AND SEX	AGE GROUPS 16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 +	TOTAL
AWOL	W.M.			2	4															6
	W.F.																			
	B.M.			2	1															3
	B.F.																			
TOTAL			0	4	5															9
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				

Prison - 1

CHARGE	COLOR AND SEX	AGE GROUPS 16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65+	TOTAL
Misdemeanors	W.M.	6	15	19	12	14	9	5	7	12	40	42	48	78	78	50	47	20	22	524
	W.F.			1			2	1	1	3	2	9	8	8	7	4				46
	B.M.	8	16	28	18	14	24	22	15	14	78	94	93	83	82	55	33	22	17	716
	B.F.		1	3	2	4	6	2	3	2	10	20	15	13	12	12	11	1	1	118
TOTAL		14	32	51	32	32	41	30	26	31	130	165	164	182	179	121	91	43	40	1404
Traffic Viol.	W.M.	5	6	5	12	4	6	5	4	9	28	26	28	17	20	8	16	4	5	202
	W.F.										1		2	2	4	1	1			11
	B.M.	2	5	9	3	8	4	7	9	4	24	22	27	20	22	19	7	2	5	199
	B.F.			2				1	1			1								5
TOTAL		7	11	16	15	12	10	13	14	13	53	49	57	39	46	28	18	6	10	417
Del. to Sheriff	W.M.	1	1	2	6		3		1	1	8	3	1	4						31
	W.F.										1									1
	B.M.	4	10	7	9	5	3	2	1	1	8	4	4	2	1			2		63
	B.F.							3	1		1		1	1		1				8
TOTAL		5	11	9	15	5	6	5	6	2	18	7	6	7	1	1		2		103
Del. to Juvenile	W.M.										1		1		1					3
	W.F.											1								1
	B.M.	1									1									2
	B.F.											1								1
TOTAL		1									2	2	1		1					7
Del. to U.S. Marshall	W.M.						1				2					1				4
	W.F.																			
	B.M.			1								1	1							3
	B.F.																			
TOTAL				1			1				2	1	1			1				7
Del. to Military	W.M.			2	4															6
	W.F.																			
	B.M.			2	1															3
	B.F.																			
TOTAL				4	5															9

Prison-1

CHARGE	COLOR AND SEX	AGE GROUPS 16	17	18	19	20	21	22	23	24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 +	TOTAL
Investigated &	W.M.	1	1		2						3	4		1						12
Released	W.F.			1		1								1						3
	B.M.	5	7	7	2	3	1	2	6		10	5	3	4	1					56
	B.F.				1								1					1		3
TOTAL		6	8	8	5	4	1	2	6		13	9	4	6	1			1		74
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				
	W.M.																			
	W.F.																			
	B.M.																			
	B.F.																			
TOTAL																				

There were 635 subjects fingerprinted at the Avenue F Prison, which is an average of 20½ subjects per day.

The following is a report of films developed and printed at the Avenue F Prison photographic laboratory:

	FILMS	PRINTS
Identification Photos	750	1457
Wreck Pictures	19	0
Homicide	17	11
Latent Prints	21	11
Safe Burglaries	133	314
Miscellaneous	-	2
TOTAL	940	1795

The following is a report of blood tests given at the Avenue F Prison:

W. M.	88
W. F.	5
B. M.	156
B. F.	15
TOTAL	264

The following is a report of sobriety tests given at the Avenue F Prison:

Over 0.150		Under 0.150	
W. M.	19	W. M.	62
W. F.	0	W. F.	4
B: M.	17	B. M.	25
B. F.	0	B. F.	0
TOTAL	36	TOTAL	91

Refused to take test:		Unable to take test:	
W. M.	8	W. M.	3
W. F.	1	W. F.	0
B. M.	3	B. M.	1
B. F.	0	B. F.	0
TOTAL	12	TOTAL	4

TOTAL NUMBER OF TESTS GIVEN: _____

There were 33,464 meals served at the Avenue F Prison at a cost of $ 8,871.58 which is an average of 26.5 cents per meal.

(S) R. K. Curtis
SUPERINTENDENT OF PRISONS

[fol. 133]

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PAGE

[fol. 134]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION
Civil Action No. 2350-N

[Title omitted]

ORDER CONTINUING TRIAL—August 23, 1966

It is Ordered that the hearing in the above-styled cause heretofore set to commence at 10 a.m., Monday, October 2, 1966, be and the same is hereby continued until 10 a.m., Tuesday, November 29, 1966.

It is further Ordered that the parties file with this Court on or before November 1, 1966, briefs on the legal questions involved.

Done, this the 23rd day of August, 1966.

Frank M. Johnson, Jr., Chief Judge.

[File endorsement omitted]

[fol. 135]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION
Civil Action No. 2350-N

[Title omitted]

ORDER ON PRETRIAL HEARING—November 22, 1966

This cause coming on to be heard on a pretrial hearing on November 21, 1966, and all parties being represented by counsel, the following action was thereupon taken:

I. The following pleadings were allowed:

[File endorsement omitted]

Complaint and answer of each defendant.

II. It was agreed by all the parties that the following are the issues in controversy to be submitted in the manner indicated below:

A. Preliminary issues to be submitted by deposition and by brief *prior* to the hearing set for 10 a.m., November 29, 1966:

1. Whether any of the plaintiffs now have standing to attack the constitutionality of the various State statutes set forth in the complaint relating to the segregation, based on race, of the *city, county* and *town* penal facilities.

2. Assuming plaintiffs prevail on the above issue, whether plaintiffs may prosecute this action as a class action under Rule 23(a), Federal Rules of Civil Procedure, against all sheriffs and wardens in the State of Alabama, with defendant A. Melvin Bailey, Sheriff of Jefferson [fol. 136] County, Alabama, and Robert K. Austin, Warden of the City Jail of Birmingham, Alabama, as representatives thereof, and if the above defendants are not proper representative parties, whether venue is properly laid as to each.

B. In addition to the preliminary issues as above outlined:

1. Whether the various statutes set out in the complaint relating to the segregation, based on race, of penal facilities throughout the State of Alabama at all levels of government (unless modified by the Court in its determination of the preliminary issues above) are unconstitutional as violative of the Fourteenth Amendment to the Constitution of the United States.

2. Whether such statutes are unconstitutional as violative of the cruel and unusual provision of the Eighth Amendment to the Constitution of the United States.

3. Assuming plaintiffs prevail on either of the above issues, under what circumstances is the segregation of the races in penal facilities justified by considerations of prison security, discipline and safety, or, stated in somewhat different terms, what is the proper scope of a prison official's discretion in determining that the races should be segregated as a matter of prison security, discipline and safety.

III. It was stipulated and agreed by counsel in this cause that plaintiffs' third cause of action, alleging discrimination based on race in the employment practices at penal facilities throughout the State of Alabama, be deleted or struck from the lawsuit.

It is Ordered that all of the above allowances and agreements be and the same are hereby binding upon all parties in the above-styled cause.

Done, this the 22nd day of November, 1966.

Frank M. Johnson, Jr., Chief Judge.

[fol. 137]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION
Civil Action No. 2350-N

CALIPH WASHINGTON, HOSEA L. WILLIAMS, JULIA ALLEN, individually and as mother and next friend of WILLIE ALLEN, a minor, WILLIE ALLEN, AGNES BEAVERS, individually and as mother and next friend of CECIL McCARGO, JR., a minor, CECIL McCARGO, JR., JOHNNIE COLEMAN, and THOMAS E. HOUCK, JR., for themselves, jointly and severally, and for all others similarly situated, Plaintiffs,

vs.

FRANK LEE as Commissioner of Corrections of Alabama; JOHN F. BRITTON, CHARLIE CASHION, HERSCHELL LUTTRELL, DR. MAX McLAUGHLIN and WILLIAM MITCH, as members of the Board of Corrections of Alabama; A. MELVIN BAILEY, as Sheriff of Jefferson County, Alabama and all other sheriffs of Alabama, jointly and severally, who are similarly situated; ROBERT K. AUSTIN as Warden of the City Jail of Birmingham, Alabama, and all other wardens and jailers of city and town jails of Alabama, jointly and severally, who are similarly situated, Defendants.

Before Rives, Circuit Judge, and Lynne and Johnson, District Judges.

Johnson, District Judge:

[File endorsement omitted]

ORDER JUDGMENT AND DECREE OF THREE-JUDGE PANEL —December 12, 1966

This is an action for declaratory and injunctive relief instituted by one white and five Negro citizens on their own behalf and on behalf of other persons similarly situated, pursuant to Rule 23(a)(3) of the Federal Rules of Civil Procedure. The plaintiffs seek a declaration concerning the rights of Negro citizens, male and female, not to be segregated, classified, designated, or otherwise subjected to racial distinctions in confinement in the state penal system and in the county, city and town jails of the State of Alabama. Further, plaintiffs assert that various statutes enacted by the Legislature of the State of Alabama, requiring segregation by race in the state, county and city penal facilities, are unconstitutional as violative of the Equal Protection Clause of the Fourteenth Amendment and the Cruel and Unusual Punishment Clause of the Eighth Amendment to the Constitution of the United States. [fol. 138] Plaintiffs ask that said statutes be declared unconstitutional and that the defendants be enjoined from requiring segregation by race in any of the state, county and city penal institutions in the State of Alabama.

Of the Negro plaintiffs, Caliph Washington is confined in the Jefferson County Jail, Jefferson County, Alabama, awaiting retrial on a capital charge; Johnnie Coleman, Willie Allen and Cecil McCargo, Jr., are confined in state penal institutions, and prior to their present incarceration had been confined under racially segregated circumstances in either city, town or county jails in Alabama; and Hosea L. Williams and Thomas E. Houck, Jr., were incarcerated in the Birmingham City Jail at the time this case was instituted.

The defendant Frank Lee is Commissioner of the Board of Corrections of the State of Alabama and as such is invested with the authority and charged with the duty of serving as the chief administrative officer of the Alabama Board of Corrections. Title 45, § 10(5), Code of Alabama,

Recompiled 1958. The defendant A. Melvin Bailey is the duly elected and qualified sheriff of Jefferson County, Alabama, and as such has the legal custody and charge of the Jefferson County Jail and all prisoners committed thereto. Title 45, § 115, Code of Alabama, Recompiled 1958. The defendant Robert K. Austin is warden of the City Jail of Birmingham, Alabama, and in this capacity has the custodial duty and authority over prisoners in that jail. The defendants Bailey and Austin are sued individually and as representatives of all county sheriffs of Alabama and of all wardens and jailers of the city and town jails of Alabama.[1]

I.

As noted in the complaint filed with the Clerk of this Court on February 18, 1966, plaintiffs Williams and Houck allege that they were then incarcerated in the City Jail of Birmingham, Alabama. It now appears, however, that the charges against Houck have been nol prossed and that Williams has entered a plea of guilty to the charges against him and has paid the fine imposed upon said plea. For these reasons, the defendants Austin and Bailey contend that plaintiffs have no standing to challenge any of the [fol. 139] statutes or practices requiring segregation or relating to the segregation by race of the penal facilities of the City of Birmingham or Jefferson County. In *Singleton v. Board of Commissioners,* 356 F. 2d 771 (5th Cir. 1966), this same issue was raised in that the plaintiff had completed the actual service of his sentence. In *Singleton,* the Court set forth the general principle applicable in such instances:

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[1] In the complaint as originally filed, plaintiffs also named as defendants the individual members of the Board of Corrections of Alabama and asked that said defendants be enjoined from excluding Negroes from employment, or otherwise discriminating against Negroes in their efforts to secure employment with the Alabama prison authorities. Upon a pretrial hearing of this cause, and by agreement of counsel, this phase of the lawsuit was stricken.

> The general standing requirement in cases involving governmental segregation is that the plaintiffs must show past use of the facilities, where feasible, and a right to, or a reasonable possibility of future use.

There is no question but that the evidence in this case reflects a "past use" of the penal facilities of the City of Birmingham and Jefferson County by some of these plaintiffs. As to that part of the general rule stated in *Singleton* concerning the "reasonable possibility of future use," this Court does not conceive that it is necessary that plaintiffs show an intention to violate the laws of the State of Alabama or the City of Birmingham in such a manner that would subject one or more of them in the future to imprisonment in these locations. *Mitchell* v. *United States,* 313 U.S. 80. Under the circumstances reflected by the evidence in this case, all that it is necessary for the plaintiffs to show on this particular point, in order to challenge the statutes and practices concerning segregation of the races in the penal facilities in the Birmingham City Jail and the Jefferson County Jail is that the operation of these institutions, as that operation presently exists, "permit[s] the recurrence of comparable violations." *Henderson* v. *United States,* 339 U.S. 816. In this regard, the Supreme Court of the United States in *Barrows* v. *Jackson,* 346 U.S. 249, observed that the rule against relying on the constitutional rights of another (who may be in this case presently imprisoned in either the penal facility of the City of Birmingham or of Jefferson County) is not part of the constitutional requirement of standing, but is a rule of self-restraint which the court has developed for its own governance, and, for that reason, is a mere rule of practice not to be applied where it would be difficult, if not impossible, for the persons whose rights are asserted to present their grievance to a court of competent jurisdiction.[2] See also *Ferguson*

[2] In this connection, defendant Austin testified that the average length of time prisoners are incarcerated in the Birmingham City

v. *Buchanan*, No. 64-107-CIV-CF, So. Dist. Fla., March 12, 1965, where the criminal prosecution against the plaintiff, who was seeking to enjoin the sheriff of Dade County, [fol. 140] Florida, from maintaining segregated facilities in the jails of Dade County, was nol prossed before the case was submitted to the district court. That court, nevertheless, found the Florida statutes that required segregation in county jails on the basis of race unconstitutional, and enjoined the defendants from operating or maintaining jails in a manner requiring segregation of the races. For these reasons, it is evident that the contention on the part of defendants Austin and Bailey that these plaintiffs do not have standing to challenge the statutes and practices requiring segregation of the races in the penal facilities of the City of Birmingham and Jefferson County is not well taken.

II.

As to the contention of the defendants Austin and Bailey that they are not representative defendants of other wardens, jailers and sheriffs in the State of Alabama and, therefore, that these plaintiffs cannot maintain this action through them as representatives of "the class" within the meaning of Rule 23, Federal Rules of Civil Procedure, this Court concludes to the contrary. While it may be that the physical facilities of Jefferson County and the City of Birmingham are more elaborate and their operations more complex than many of the other jails in Alabama, this, without more, cannot serve to nullify the operation of that portion of the class action rule that authorizes representative defendants. See *Harris* v. *Palm Springs Alpine Estates, Inc.*, 329 F. 2d 909 (9th Cir. 1964). See also *Potts* v. *Flax*, 313 F. 2d 284 (5th Cir. 1963); *Sims* v. *Frink*, 208 F. Supp. 431 (M.D. Ala. 1962). It would be extremely

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Jail is from seven to fifteen days. Under such circumstances, it would be impossible for a prisoner to file and secure an adjudication on his case before he was released.

difficult, if not impossible, to find members of a class to serve as representative defendants in a case, such as this one, where there are not some material differences in the physical facilities and operations involved. But since the rule requires only that there be questions of law and fact common to these defendants and the members of the class which they represent—a requirement which, as indicated, is satisfied in this case—then it becomes immaterial whether certain of these class defendants are not otherwise identically situated. 3 Moore, Federal Practice, ¶ 23.10 at 3454 (2d Ed. 1963). See *Harris* v. *Palm Springs Alpine Estates, Inc.*, supra (citing cases).[3]

[fol. 141] The only defense offered to the contention that the statutes involved herein[4] violate the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States is that the practice of racial segregation in penal facilities is a matter of routine prison security and discipline and is, therefore, not within the scope of permissible inquiry by the courts. We disagree. Since *Brown* v. *Board of Education*, 347 U.S. 483 (1954), and the numerous cases implementing that decision, it is unmistakably clear that racial discrimination by governmental authorities in the use of public facilities cannot be tolerated. As stated by the Fifth Circuit in *Singleton* v. *Board of Commissioners*, supra:

> Twelve years ago, in Brown v. Board of Education of Topeka, 1954, 347 U.S. 483, the Supreme Court effec-

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[3] On this point this Court has serious misgivings as to the right of either the defendant Austin or the defendant Bailey to raise this particular question in this case. It appears that such a defense would, if valid, enure only to the benefit of other members of "the class" that these defendants are alleged to represent. The contention on the part of these defendants that, if they are not proper representatives of the other members of the class, venue in this district is improper as to them without legal basis. Title 28, § 1329(a), United States Code.

[4] The Alabama statutes that require segregation of the races in the prisons and jails of Alabama are §§ 4, 52, 121, 122, 123, 172 and 183 of Title 45, Code of Alabama, Recompiled 1958.

tively foreclosed the question of whether a State may maintain racially segregated schools. The principle extends to all institutions controlled or operated by the State. "[I]t is no longer open to question that a State may not constitutionally require segregation of public facilities." Johnson v. Virginia, 1963, 373 U.S. 61, 62. 356 F. 2d at 772.

Although it is true that "[l]awful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system,"[5] it is well established that prisoners do not lose all their constitutional rights and that the Due Process and Equal Protection Clauses of the Fourteenth Amendment follow them into prison and protect them there from unconstitutional action on the part of prison authorities carried out under color of state law. *Cooper* v. *Pate*, 378 U.S. 546 (1965); *Cochran* v. *Kansas*, 316 U.S. 255 (1942); *Sewell* v. *Pegelow*, 291 F. 2d 196 (4th Cir. 1961); *Pierce* v. *LaVallee*, 293 F. 2d 233 (2d Cir. 1961), and *Fulwood* v. *Clemmer*, 295 F. 2d 171 (D.C. Cir. 1961). In this regard, this Court can conceive of no consideration of prison security or discipline which will sustain the constitutionality of state statutes that on their face require complete and permanent segregation of the races in all the Alabama penal facilities. We recognize that there is merit in the contention that in [fol. 142] some isolated instances[6] prison security and discipline necessitates segregation of the races for a limited period. However, recognition of such instances does nothing to bolster the statutes or the general practice that requires or permits prison or jail officials to separate the

[5] *Price* v. *Johnston*, 334 U.S. 266 (1948).

[6] For example, the "tank" used in the City of Birmingham and other large municipal jails where intoxicated persons are placed upon their initial incarceration and kept until they become sober. According to the evidence in this case, the population of the "tank" on Saturday nights in the Birmingham jail reaches fifty or more.

races arbitrarily. Such statutes and practices must be declared unconstitutional in light of the clear principles controlling.

Plaintiffs' contention that the separation of prisoners solely on the basis of race constitutes a violation of the "Cruel and Unusual" Punishment Clause of the Eighth Amendment to the Constitution of the United States is plainly without merit. There is no question but that, through the action of the Fourteenth Amendment, the Eighth applies to the states, *Robinson* v. *California*, 370 U.S. 660 (1962). However, the Cruel and Unusual Punishment Clause of the Eighth Amendment was adopted to prevent inhuman, barbarous or torturous punishment, *Black* v. *United States*, 269 F. 2d 38 (9th Cir. 1959), cert. denied, 361 U.S. 938 (1960); *Hemans* v. *United States*, 163 F. 2d 228 (6th Cir.), cert. denied, 332 U.S. 801 (1947); and segregation of individuals, while incarcerated, solely by reason of their race does not, in the opinion of this Court, constitute cruel and unusual punishment.

IV.

The operation of penal institutions, whether it be on a state-wide or local level, is a highly specialized endeavor, and the sober judgment of experienced correctional personnel, such as Frank Lee as Commissioner of the Board of Corrections for the State of Alabama and A. Melvin Bailey as sheriff of Jefferson County, Alabama, deserves the most careful consideration of this Court. In this connection, it is recognized that "[t]he association between men in correctional institutions is closer and more fraught with physical danger and psychological pressures than is almost any other kind of association between human beings," *Edwards* v. *Sard*, 250 F. Supp. 977 (D.C. Dist. 1966), and in light of this recognition this Court will not at this time require an immediate and total desegregation of state, county and city penal facilities in the State of Alabama. However, the several honor farms, the educational programs, the youth centers and the hospitals in the state system must

be completely desegregated immediately. All facilities in the minimum and medium security institutions, including Draper Correctional Center and Julia Tutwiler Prison for Women, must be completely desegregated within six months. As to the maximum security institutions, such as Kilby Prison and Atmore Prison, the evidence reflects that [fol. 143] considerations of security and discipline require a more gradual desegregation. In this connection, the Court will expect complete and total desegregation of all state penal facilities, including the maximum security institutions, within a period of one year. As to the county and city systems, complete desegregation should be achieved within six months in all areas, including quarters, except in very exceptional instances as, for example, in the use of the "tank" mentioned previously.

No plan of desegregation will be required of any of these defendants. However, since it is the function and duty of the Board of Corrections for the State of Alabama, and particularly the Commissioner thereof, pursuant to §§ 3, 7, 10(1), 10(5), 10(8) and 11, to inspect and generally supervise every county and municipal jail or prison in any incorporated town and city in the State of Alabama having ten thousand or more population, this Court will require the Commissioner of the Board of Corrections to supervise not only the desegregation of state penal facilities as herein ordered, but also the desegregation of the jails in the counties throughout the State of Alabama and in all towns and cities throughout the state. The Commissioner of the Board of Corrections will be required to report to this Court every three months beginning March 15, 1967, concerning the steps being taken and the progress being made in the state penal institutions and the county and city jails, and other penal facilities throughout the State of Alabama.

In view of the declarations herein made concerning the unconstitutionality of the state statutes in question to the extent that those statutes require segregation of the races solely by reason of their color, and with the further declarations as to the unconstitutionality of the practice of

segregating prisoners in any of the state, county or city penal facilities solely by reason of race, and the declarations concerning the duty of appropriate officials to take the necessary steps within the periods herein indicated, this Court does not consider it necessary to issue a formal injunction in this case at this particular time. However, there should be no misunderstanding on the part of any of the officials involved concerning the duty imposed upon them by the law generally and by this order specifically to cease the practice of arbitrarily segregating the races in the state, county and city penal facilities. The officials of the State of Alabama, whether they be concerned with the state penal facilities or the county and city penal facilities, [fol. 144] have an affirmative duty and responsibility to effect desegregation of these facilities in accordance with this decree. Jurisdiction of the case will be specifically retained for all purposes.

It is, therefore, the Order, Judgment and Decree of this Court that §§ 4, 52, 121, 122, 123, 172 and 183 of Title 45, Code of Alabama, Recompiled 1958, be and are, in each instance, declared violative of the Fourteenth Amendment to the Constitution of the United States to the extent that said statutes require segregation of the races in the prisons and jails of Alabama.

It is further Ordered that the defendant Frank Lee as Commissioner of the Board of Corrections for the State of Alabama, his successors in office, agents, servants and employees, take the necessary and appropriate steps to desegregate immediately the several honor farms, the educational programs, the youth centers and the hospitals in the state penal system; that said officials take the necessary and appropriate steps to effect complete desegregation of the minimum and medium security institutions, as operated by the state penal system, within six months from the date of this decree; that said officials take the necessary and appropriate steps to effect complete desegregation of all other state penal facilities, including the maximum

security institutions, within a period of one year from the date of this decree.

It is further Ordered that the defendant A. Melvin Bailey as sheriff of Jefferson County, Alabama, and each sheriff of each county in the State of Alabama, their successors in office, agents, servants and employees, take the necessary and appropriate steps to completely desegregate the county jails and any other penal facilities and operations that may be maintained by any such county, within a period of six months from the date of this decree.

It is further Ordered that the defendant Robert K. Austin as warden of the City Jail of Birmingham, Alabama, and each warden in each town and city in the State of Alabama, their successors in office, agents, servants and employees, take the necessary and appropriate steps to completely desegregate the town and city jails, and any other penal facilities and operations that may be maintained by any such town or city, within a period of six months from the date of this decree.

It is further Ordered that the Commissioner of the Board of Corrections for the State of Alabama, his successors in office and agents designated by said Commissioner, supervise the racial desegregation of every county and municipal jail or prison in the State of Alabama and report to this Court every three months beginning March [fol. 145] 15, 1967, concerning the steps being taken and the progress being made in the state penal institutions and in the county and city jails and other penal facilities throughout the State of Alabama.

It is further Ordered that each sheriff and each warden in the counties, cities and towns in the State of Alabama furnish the Commissioner of the Board of Corrections for the State of Alabama such reports and information that may be required by said Commissioner in the discharge of his duty to report to this Court.

It is further Ordered that the costs incurred in this proceeding be and they are hereby taxed against the de-

fendants, but the Court is of the opinion that the State of Alabama should pay the costs for the defendants.

Done, this the 12th day of December, 1966.

Richard T. Rives, United States Circuit Judge, Seybourn H. Lynne, United States District Judge, Frank M. Johnson, Jr., United States District Judge.

[fol. 146]

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF ALABAMA

NORTHERN DIVISION

Civil Action No. 2350-N

[Title omitted]

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed February 6, 1967

A

I. Notice is hereby given that the defendants Frank Lee as Commissioner of Corrections of Alabama; John F. Britton, Charlie Cashion, Herschell Luttrell, Dr. Max McLaughlin and William Mitch, as members of the Board of Corrections of Alabama, above named, hereby appeal to the Supreme Court of the United States from the final order entered in this case on December 12, 1966.

II. This appeal is taken pursuant to 28 U.S.C. §1253.

B

I. The Clerk will please prepare a transcript of the record in this case, for transmission to the Clerk of the Supreme Court of the United States, and include in said

[File endorsement omitted]

transcript all pleadings, motions and orders including, but not limited to, the following:

[fol. 147]

(1) Complaint filed February 18, 1966.

(2) Motion for Preliminary Injunction filed February 18, 1966.

(3) Motion to Dismiss filed March 4, 1966.

(4) Order appointing three-judge court filed March 22, 1966.

(5) Motion to Amend Complaint filed April 2, 1966.

(6) Order granting Amendment to Complaint filed April 5, 1966.

(7) Order carrying Motions to Dismiss with the case filed June 8, 1966.

(8) Interrogatories to defendant Frank Lee filed June 9, 1966.

(9) Order setting case for Trial on Merits filed June 13, 1966.

(10) Answer of above-named defendants filed June 14, 1966.

(11) Defendant Frank Lee's Answer to Plaintiffs' Interrogatories filed June 14, 1966.

(12) Order continuing hearing on the merits to November 29, 1966, filed August 23, 1966.

(13) Order on pretrial hearing filed November 22, 1966.

(14) Order of Rives, Circuit Judge, and Lynne and Johnson, District Judges, entered December 12, 1966.

(15) All pleadings, answers, motions to dismiss, and interrogatories of all parties to the cause in order to present a complete record, including all exhibits.

(16) Complete transcript of all evidence of all parties introduced in the case.

C

I. The following questions are presented by this appeal:

[fol. 148]

(1) Do state statutes which require the separation of white and Negro prisoners in state penal institutions and county and city jails violate the provisions of the Fourteenth Amendment to the Constitution of the United States?

(2) Does a prisoner serving a penitentiary sentence have the constitutional right to question the validity of state statutes requiring the separation of prisoners by race?

(3) Does the District Court have jurisdiction and authority to require the defendant Commissioner of Corrections of Alabama to supervise the desegregation of all penal state facilities, including cities of under ten thousand population where state statutes invest authority in the said Commissioner only as to cities over ten thousand population?

(4) Are §§4, 52, 121, 123, 172, and 183 of Title 45, Code of Alabama, Recompiled 1958, violative of the Fourteenth Amendment to the Constitution of the United States to the extent that said statutes require the segregation of the races in the prisons and jails of Alabama?

(5) Does the District Court have authority to order the defendant Frank Lee as Commissioner of the Board of Corrections to make reports to the court every three months, beginning March 15, 1967, as to the steps taken and progress made to eliminate segregation in the state penal institutions and the county and city jails in the State of Alabama?

[fol. 149] MacDonald Gallion, As Attorney General of the State of Alabama; Gordon Madison, As Assistant Attorney General of the State of Alabama, Attorneys for above-named Defendants.

Certificate of Service (omitted in printing).

[fol. 150]

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF ALABAMA

NORTHERN DIVISION

Civil Action No. 2350-N

[Title omitted]

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed February 8, 1967

A

1. Notice is hereby given that the defendant, Robert K. Austin, as Warden of the City Jail of Birmingham, Alabama, in the above styled cause hereby appeals to the Supreme Court of the United States from the final order entered in this case on December 12, 1966.

II. This appeal is taken pursuant to 28 U.S.C. § 1253.

B

I. The Clerk will please prepare a transcript of the record in this case, for transmission to the Clerk of the Supreme Court of the United States, and include in said transcript all pleadings, motions and orders including, but not limited to, the following:

1. Complaint filed February 18, 1966.

[File endorsement omitted]

2. Motion for Preliminary Injunction filed February 18, 1966.

[fol. 151] 3. Motion of defendant, Robert K. Austin, to dismiss filed April 25, 1966.

4. Order appointing three-judge Court filed March 22, 1966.

5. Motion to Amend Complaint filed April 2, 1966.

6. Order granting amendment to complaint filed April 5, 1966.

7. Order carrying motions to dismiss with case filed June 8, 1966.

8. Interrogatories to Defendant, Robert K. Austin, filed June 9, 1966.

9. Order setting case for trial on merits filed June 13, 1966.

10. Answer of Defendant, Robert K. Austin, filed June 17, 1966.

11. Answer of Robert K. Austin to Plaintiffs' Interrogatories filed June 25, 1966.

12. Order continuing case on merits to November 29, 1966, filed August 23, 1966.

13. Order on pretrial hearing filed November 22, 1966.

14. Order of Rives, Circuit Judge, and Lynne and Johnson, District Judges, entered December 12, 1966.

15. All pleadings, answers, motions to dismiss, and interrogatories of all parties to the cause in order to permit a complete record, including all exhibits.

16. Complete transcript of all evidence of all parties introduced in the case.

17. This notice of appeal.

II. If permitted under Rules of Court, it is requested that the transcript of the Record be prepared in connection with other appeals heretofore or hereafter taken in this case so as to include items set out in I above, but eliminate duplications and thereby reduce expense, as provided by Rule 74 of Federal Rules of Civil Procedure, but if such is not permissible, please prepare transcript in accordance with I above.

C

I. The following questions are presented by this appeal:

(1) Do state statutes which require the separation of white and Negro prisoners in state penal institutions and county and city jails violate the provisions of the Fourteenth Amendment to the Constitution of the United States?

[fol. 152] (2) Are §§ 4, 52, 121, 123, 172 and 183 of Title 45, Code of Alabama, Recompiled 1958, violative of the Fourteenth Amendment to the Constitution of the United States to the extent that said statutes require the segregation of the races in the prisons and jails of Alabama?

(3) Do the plaintiffs in this case have standing to challenge any of the statutes or practices requiring segregation or relating to the segregation by race of the penal facilities of the City of Birmingham?

(4) Is the defendant, Austin, representative of other wardens and jailers of city and town jails of Alabama to the extent that plaintiffs may maintain this action through said Austin as representative of "the class" within the meaning of Rule 23, Federal Rules of Civil Procedure?

J. M. Breckenridge, Earl McBee, Attorneys for Defendant, Robert K. Austin, as Warden of the City Jail of Birmingham, Alabama, 600 City Hall, Birmingham, Alabama 35203.

Certificate of Service (omitted in printing).

[fol. 153]

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF ALABAMA

NORTHERN DIVISION

Civil Action No. 2350-N

[Title omitted]

MOTION FOR STAY PENDING APPEAL—
Filed February 14, 1967

Now come Frank Lee as Commissioner of Corrections of Alabama; John F. Britton, Charlie Cashion, Herschell Luttrell, Dr. Max McLaughlin and William Mitch, as members of the Board of Corrections of Alabama, and respectfully move the Court for a Stay of the Order, Judgment, and Decree of the Court entered on the 12th day of December, 1966, and as grounds therefor assign the following:

That the above named defendants have filed Notice of Appeal to the Supreme Court of the United States on the Judgment and Decree of the Court entered on December 12, 1966; that said Judgment or Decree ordered immediate desegregation of certain prison facilities and others to be desegregated within six months and still others to be desegregated within twelve months; that said Appeal involves questions which have not been specifically decided as to prisoners by either the Fifth Circuit Court of Appeals or the Supreme Court of the United States; that the questions presented on appeal are substantial and no appreciable injury will result to plaintiffs by staying the Judgment pending a decision by the Supreme Court of the United States.

MacDonald Gallion, As Attorney General of Alabama; Gordon Madison, as Assistant Attorney General of Alabama, Attorneys for above named defendants.

[File endorsement omitted]

[fol. 154] Certificate of Service (omitted in printing).

[fol. 155]

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF ALABAMA

NORTHERN DIVISION

Civil Action No. 2350-N

[Title omitted]

ORDER DENYING MOTION FOR STAY—February 15, 1967

The defendants' motion for a stay of the order of this Court made and entered herein on December 12, 1966, pending an appeal of this cause to the Supreme Court of the United States, is now presented.

Upon consideration of said motion, it is the Order and Judgment of this Court that the motion for a stay pending appeal be and the same is hereby denied, except it is Ordered that the judgment of this Court made and entered herein on December 12, 1966, be and the same is hereby stayed for a period of twenty days so as to enable the defendants, if they desire, to present to the Supreme Court of the United States their motion for stay pending appeal.

This order is entered by and with the express consent of each of the judges designated to hear and determine this action.

Done, this the 15th day of February, 1967.

Frank M. Johnson, Jr., Chief Judge.

[File endorsement omitted]

[fol. 156] [File endorsement omitted]

[fol. 159]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

Civil Action No. 2350-N

CALIPH WASHINGTON, HOSEA L. WILLIAMS, JULIA ALLEN, individually and as mother and next friend of WILLIE ALLEN, a minor, WILLIE ALLEN, AGNES BEAVERS, individually and as mother and next friend of CECIL MCCARGO, JR., a minor, CECIL MCCARGO, JR., JOHNNIE COLEMAN, and THOMAS E. HOUCK, JR., for themselves, jointly and severally, and for all others similarly situated

v.

FRANK LEE, as Commissioner of Corrections of Alabama; JOHN F. BRITTON, CHARLIE CASHION, HERSCHELL LUTTRELL, DR. MAX MCLAUGHLIN and WILLIAM MITCH, as members of the Board of Corrections of Alabama; A. MELVIN BAILEY, as Sheriff of Jefferson County, Alabama, and all other sheriffs of Alabama, jointly and severally, who are similarly situated; ROBERT K. AUSTIN as Warden of the City Jail of Birmingham, Alabama, and all other wardens and jailers of city and town jails of Alabama, jointly and severally, who are similarly situated.

Before: Hon. Richard T. Rives, United States Circuit Judge; Hon. Seybourn H. Lynne, United States District Judge; and Hon. Frank M. Johnson, Jr., United States District Judge.

At: Montgomery, Alabama.

Transcript of Proceedings—November 29, 1966

[fol. 160] APPEARANCES:

For the Plaintiffs: Charles Morgan, Jr., M. Laughlin McDonald, and Orzell Billingsley, Jr.

For Frank Lee and members of Board of Corrections: Gordon Madison.

For Sheriff Bailey: Dominick, Fletcher & Yeilding (Frank Dominick and Walter Fletcher).

For Warden Austin: J. M. Breckenridge and Earl McBee.

(The above-styled case coming on for trial at Montgomery, Alabama, November 29, 1966, before the above-constituted Court, the following proceedings were had:)

Judge Rives: Gentlemen, we call the case of Caliph Washington and others against Frank Lee as Commissioner of Corrections of Alabama and others. Have counsel already noted their appearances?

Mr. Morgan: Yes, sir; we have.

Judge Rives: And do the plaintiffs have any evidence to offer?

Mr. Morgan: Yes, sir; we do. We have one witness, and we have a matter that I think they will recognize, and I think that the City of Birmingham has some documents, themselves, they want to introduce into evidence. Then we have the interrogatories to three parties and the answers from three parties, and I would move the admission of the interrogatories into—and the admission of the answers to [fol. 161] interrogatories to Messrs. Austin, Bailey, and Lee at this time, if I might.

Judge Rives: Very well; unless there is some objection, those will be admitted. And unless there is some further preliminary matter, why, the plaintiffs may proceed.

Mr. Breckenridge: Your honor, we have certificates from the Circuit Court in Birmingham showing that two of

the party complainants pled guilty, and that the action against them has been disposed of, and the other cases which were pending at the time of the guilty plea have been nol-prossed.

Judge Rives: Those were the certificates that we have already seen, I expect; aren't they?

Mr. Breckenridge: Hosea L. Williams and Thomas E. Houck, Jr.

Judge Rives: Yes, sir.

Mr. Breckenridge: Now, I believe I sent to Judge Johnson the—Judge Johnson a copy, as he suggested at pretrial hearing, the original of those documents—I do have another certified copy here.

Judge Johnson: They have been filed with the Clerk.

Judge Rives: They have been filed; we have examined them, and, at the appropriate time, those may be introduced in evidence.

Mr. Breckenridge: We do not want them introduced at this time.

Judge Rives: All right, sir.

[fol. 162] Mr. McBee: Your honor, we would like to have them introduced at this time.

Judge Rives: Well, I take it plaintiff will introduce its evidence first.

Mr. McBee: I understood that; you mean—oh.

Mr. Morgan: They have something of a preliminary nature.

Mr. McBee: At the proper time?

Judge Rives: Yes.

Mr. McBee: We will have a stipulation, your honor,—that this—that this—that the averments of paragraph one of the eighth defense are correct.

Judge Rives: All right.

Mr. McBee: They will stipulate that is correct.

Judge Rives: Yes; yes, sir. Very well, gentlemen, the plaintiffs may proceed.

Mr. Morgan: All right, sir. I want to call Mr. John Boone, and find me paragraph one of the eighth defense, please.

The Clerk: Hold up your right hand, please, sir. Do you solemnly swear the testimony you give in this cause to be the truth, the whole truth, and nothing but the truth, so help you, God?

Witness John O. Boone: I do.

Mr. Morgan: One moment, Mr. Boone. Your honor—

Mr. McBee: May we have the witness's name? I didn't [fol. 163] get it.

Mr. Morgan: John O. Boone, B double o-n-e. I note that the statement was made that we stipulated to paragraph one of the eighth defense, with regard to the records of the City of Birmingham; we would like to, of course, point out in that stipulation that those cases, guilty pleas were entered, fines were paid, or nol-prosses were entered after the date of filing of this suit.

Judge Rives: (Nodded to indicate affirmative reply.)

JOHN O. BOONE, witness for the Plaintiffs, having been duly sworn, testified as follows:

Direct examination.

By Mr. Morgan:

Q. What is your name?

A. John O. Boone.

Q. By whom are you employed, Mr. Boone?

A. Southern Regional Council.

Q. What is the Southern Regional Council, Mr. Boone?

A. It is a human relations agency located—headquarters is located in Atlanta, Georgia.

Q. Go ahead; pardon me; I am sorry.

A. Designed to promote better human relations in the Southern region.

Q. Mr. Boone, what is the nature of your work with that organization?

[fol. 164] A. The organization have a Ford Foundation grant to do whatever it can to support improvement of

procedures to cope with delinquency and crime in the Southern region and to improve the procedures of penal administration in the Southern region. It is a three-year project.

Q. Where did you go to school, Mr. Boone?

A. Morehouse College and Atlanta University.

Q. Did you receive degrees at those institutions?

A. I received an A.B. degree at Morehouse College and a Master of Social Work degree from Atlanta University.

Q. A Master of Social Work degree; were you employed after your—you graduated and received your Master's degree?

A. Yes, I was employed for approximately fourteen years at the Atlanta Federal Penitentiary. I started as a correctional officer or guard and proceeded through the ranks to Chief of Classification and Parole Unit, before I was transferred to the Penitentiary, Terre Haute, Indiana, as Chief of the Classification and Parole Unit.

Q. While at the Atlanta Penitentiary, did you have any experience with the desegregation of that penitentiary?

A. Yes; we desegregated in several different phases, in several aspects of the prison life, while I was there.

Q. Would you tell the Court how the Atlanta Penitentiary went about that?

A. My first experience was when—when I went on duty [fol. 165] there, the jobs were completely segregated. Negroes did only the janitorial jobs, and what have you, and the Classification and Parole Officer started encouraging Classification Committee to start assigning Negroes to jobs that they could—so that they could learn something and be helpful to them after they leave, and this is how we did that. We would present the case and say this man would make, for example, a good laundry worker or a good cook, and he should be assigned likewise, or this man has the ability to become a plumber. So that was the—how we got the jobs desegregated. A few years later, Warden looked around and said. "We should desegregate the Education Department." He called a meeting at his residence

of all of the staff members, administrative staff, education staff, classification people, and wondered if this would be feasible at this time. There were positives and negatives. Some felt that it was; some felt it wasn't. However, he said, "We have orders to do it, and we will do it." And the Education Department was desegregated without incident overnight. Later on, under the guidance of another Warden, he mentioned that perhaps we should desegregate the Admission and Orientation Unit, and he—it was a—he decided that this would be done, as a new man was admitted, that he would be assigned to quarters without regard to race. This was done without incident. Later we built a new dormitory, and at that time the Warden decided that we should desegregate all of the honor units, the dormitories and the honor farm and what have you. And [fol. 166] this was done, without incident. Then a few years later, we decided—the Warden decided that we should endeavor to desegregate the closed custody units; this is the large cell blocks. This was being done when I left. When I was transferred to Terre Haute Penitentiary, they were desegregating D cell house, and after I left, they desegregated the larger cell houses.

Q. Based upon your experience, your educational background, and your observation of desegregation in the Atlanta Federal Penitentiary, do you have an opinion as to whether or not any substantial problems will be met in a penal institution in the State of Alabama by racial desegregation of that institution?

A. No.

Mr. Madison: We object to that, if the Court please, as being applied to the penal institutions in the State of Alabama.

Judge Rives: Objection will be overruled.

Q. You can answer.

A. No, I don't.

Q. You do not have an opinion or you do have an opinion?

A. I don't think, properly managed, that they would have any difficulty at all.

Q. Fine. Now, are there any racial—has it been your experience—based upon your experience, your work experience, and your education, your educational background and your employment at both the Atlanta Federal Penitentiary and the Federal Penitentiary at Terre Haute, [fol. 167] Indiana, do you have an opinion regarding racial tensions existing within a prison, and whether or not they are greater under a system of racial segregation or under a system of integration?

A. I would think they were—they are greater under a system of racial segregation. You see, men in prison take advantage of any kind of weakness in any kind of social system in the prison, and this is one thing that they do, they—this has prevailed through the years, and they will agitate and do most anything; however, in an atmosphere of honesty and integrity, why, the morale is up, and we noticed an improvement in morale as we began to cope with the problem and integrate the other services.

Mr. Morgan: Thank you, Mr. Boone; that's all. These other gentlemen may have some questions for you.

Cross examination.

By Mr. Madison:

Q. You say the first desegregation took place—

Judge Rives: However you like. What were you asking, Mr. Madison? I didn't—I didn't understand you. However you and the reporter like it.

Q. You stated that the first desegregation took place with reference to jobs in the Atlanta prison system?

A. Yes, sir.

Q. And I believe you testified that—that some two years later you took up the educational part of the program in [fol. 168] penal—in the penal institutions; is that correct?

A. Some few years later we—

Q. Or few?

A. Few.

Q. Few; few years?

A. (Nodded to indicate affirmative reply)

Judge Rives: Mr. Madison, interrogate him, if you will, about what years he is talking about.

Q. Now, what—what years are you talking about; when did you first start the desegregation of the jobs?

A. I started in 1951, and the Education Department was desegregated in approximately 1954, about the time of the Supreme Court decision about education facilities.

Q. Then after that, you went into the educational part of the program at the institution, and that was desegregated?

A. Yes.

Q. And how long did it take?

A. Overnight.

Q. Overnight?

A. (Nodded to indicate affirmative reply)

Q. And then, I believe, you testified that a few years later you went into another part of the desegregation program at the prison?

A. Yes. This was the Admission and Orientation Unit. There is a separate building when we bring—when men—[fol. 169] when new men come in, they stay for a period of thirty days. It was decided that as these men are admitted, they should be assigned to quarters without regard to race.

Q. Is the prison system that you have testified about, is it completely desegregated now?

A. It is completely desegregated now.

Q. And how long did it take in all from the beginning in 1951 until the complete desegregation took place; how many years?

A. Well, let me—you say how long did it take; actually, let's say this, it was completed last year, but this is not meant to imply that it took that long.

Q. Well, you started in 1951—

A. (Nodded to indicate affirmative reply)

Q. —a desegregation program for the penal institutions in Atlanta; right; or in what?

A. At first we were thinking about the men. That is, I looked around, and Negroes weren't getting experience; they weren't preparing them to go back in the community, because they were assigned only to, let's say, janitorial jobs. Then the professional case workers started encouraging the Classification Committee to assign these men to jobs so they would be better prepared. Now, I don't think we were thinking about integration; in other words, getting them ready to go to the community was an overriding factor, not desegregation as such.

Q. Well, do you find in your work that there are different [fol. 170] types of prisoners, and some require certain type of treatment in penal institutions from others?

A. Yes; without regard to race, you have a small percentage, about—I don't—I won't say, but a very small percentage that need more control than others. Of course, this—

Q. Do you mean by that that there can be separation of Negroes from whites which will not be on the basis of race, but be for security or other reasons in the penal institutions?

A. No, I don't believe that; in fact, I have never found that that was necessary unless two men were fighting, and they could be two white men; we might separate them until they cool off and maybe decide to shake hands and not, you know, do battle again; but we wouldn't segregate—we haven't found it necessary to do anything like that.

Q. How would you think that one Negro prisoner, we will say, would fare among thirty or forty white prisoners with the same degree of conviction, we might say, or the same charges?

A. I think this would be related to the management; whether or not they were determined, whether or not the atmosphere was right, that the policy of the institution was equal treatment, you know, without regard to race, and I—I—I just don't see thirty men taking advantage of

this what you mean of [illegible] gro. It—it doesn't happen. In fact, we—we have in [illegible]t times had a Negro on a job wit[illegible] a predomin[illegible]ber of whites, and really [fol. 171] you have a [illegible]nant number of southerners in Atlanta Federal [illegible] and they accept it. In fact, these men in prison, [illegible]ners and northerners, serve time all over the country; they may serve in a segregated institution in Alabama and go right away, next sentence, to Massachusetts and serve in an integrated institution; so really, the administration leaving themselves open when they have a segregated system for the cunning men to take advantage of this weakness to cause disturbance and to take advantage of an opportunity to make it difficult for management.

Mr. Madison: I don't know exactly, I believe you qualified him as an expert; anyhow—

Mr. Morgan: (Nodded to indicate affirmative reply)

Mr. Madison: —I will ask him the question on that basis.

Q. In your opinion, do the officials of a penal system like the one we have here in Alabama, if you are familiar with it, do they have to have a wide latitude of discretion in the operation of that system?

A. Within certain limitations.

Q. What are the limitations?

A. I think that you—they should first give everybody equal protection under the law; they must have, I believe, the discretion to control men. In control situation, you have a lot of human beings together, stress and pressure, [fol. 172] where a man, without regard to race, may go berserk where you would have to protect the others and perhaps take that individual out and maybe isolate an individual.

Q. Assuming that the—that these statutes relating to the separation of races in prisons are struck down and that no longer there is any separation on the basis of race and color in those institutions, assuming that to exist,

would you say that the prison officials would have latitude and discretion in the operation of the prison system?

A. Yes, I—I think they would have the makings of improving the system.

Q. Do not instances occur in which decisions have to be made on the spot, so to speak, in the operation of a penal system? For instance, you said awhile ago two men—

A. This is true.

Q. —two men may get to fighting? Anything might arise that would require prison officials to make a decision right then and there about what would be the best thing to do?

A. Yes, that is true.

Mr. Madison: That's all.

By Mr. Breckenridge:

Q. Your—your experience—your experience has been entirely in the Federal system; is that correct? Prison system?

A. Yes, it has been.

Q. Now—and limited in that system to penitentiaries as [fol. 173] distinguished from town jails? Is that correct?

A. Yes; that's right.

Mr. Breckenridge: That's all.

Judge Rives: Anything further from the plaintiffs? Mr. Fletcher?

Judge Johnson: Mr. Fletcher.

By Mr. Fletcher:

Q. Mr. Boone, I understand you have no familiarity with Alabama jails or penal—?

A. Yes; I mean, I am acquainted with some of the prison officials, at least I have met them, and I have met some of your ex-inmates. In fact, I have encountered hundreds and hundreds of them in Federal Prison.

Q. Well, are you familiar with the jails?

A. And we have sent some over here; in fact, you have some of our men over here now that we have transferred to you, that is—we have cooperated fairly well together.

Q. Are you familiar with the prisons in Alabama, with Kilby?

A. Yes; prison is not that different. You see, actually, you might say that some prisons in the Southern region are under-developed, and I have been since—for the last six months have been practically over all the region talking to people who are interested.

Q. Tell me one Alabama prison with which you are familiar?

A. I haven't visited any Alabama prison as such.

[fol. 174] Q. You have not visited any Alabama prison?

A. No, but I have been in meetings with Alabama prison officials who talked about their system as such.

Q. You are not familiar with the Jefferson County Jails?

A. No.

Q. Never been in them?

A. No.

Q. Let me ask you if it is not a fact that the type prisoners that are usually found in the Federal penal institutions are different?

A. Sir?

Q. Are not the type prisoners usually found in Federal penal institutions different?

A. No, sir.

Q. Than those in State?

A. No, sir; they are the same men.

Q. Are the prisoners in Federal Prisons in for rape, burglary, murder, assault?

A. Yes, sir; yes, sir.

Q. Under Federal conviction of rape?

A. Certainly, we have had some in for rape.

Q. Well, is there not a higher ratio of prisoners in State penal systems that are convicted of crimes of violence rather than those who are in Federal Prisons having run afoul of some Federal law?

[fol. 175] A. Let's say I don't think so. I think you will find similar populations, I'll say—you see, in Alabama, you go out to your prison, no doubt about it, you will find men from all over the country in your prison, who have been in Federal Prison perhaps any number of times.

Q. This is only because an offender likely is a repeat?

A. That is right; that is because they do repeat; unfortunately, that is the big problem.

Q. Are there at times in all prisons when prisoners are —are and must of necessity be locked up entirely without supervision, for instance at night?

A. Oh, about—a small percentage, I would say about ten per cent of them. If you had as your Classification Officer—most of the men can be trusted, but a small number of them must be locked up.

Q. Excuse me, Mr. Boone; I am not asking you about can they be trusted, I am asking you are there times in all prisons when the prisoners must of necessity be locked up without supervision?

A. I will say there are times when they are locked up without supervision, but I don't think it is necessary for all of them; I say the small percentage of them.

Q. Is this true in Federal penal institutions?

A. In all—in all prisons.

Mr. Fletcher: That's all.

Judge Rives: Anything further from the defendants?

[fol. 176] Anything further from the plaintiffs?

Mr. Morgan: Yes, sir.

Redirect examination.

By Mr. Morgan:

Q. Mr. Boone, the first gentleman that examined you, Mr. Madison, posed a couple of questions to you as an expert, and I just want to clarify one thing. Do you feel that under any set of circumstances race is a relevant characteristic for the purposes of assignment of either work-living habits or dormitory space or otherwise in a penal institution?

A. Not at all.

Mr. Morgan: That's all.

Mr. Breckenridge: I have—

Judge Rives: Yes, sir.

Mr. Breckenridge: In view of that last question, I have a question to ask Mr. Boone.

Recross examination.

By Mr. Breckenridge:

Q. Are you—do you know Mr. Charles M. Rogers, Deputy Superintendent of Lorton Penitentiary?

A. No, I don't.

Q. Do you agree with the statement that he made that was reported in Edwards versus Sard, 250 Federal Supplement 977, that the race of prisoners is one factor in deciding which dormitory to assign them to; do you agree or disagree with that?

[fol. 177] Mr. Morgan: Object for just one point; I would like for the witness to be able to see the document from which Mr. Breckenridge is reading; he might just give it to him and let him familiarize himself with it.

Mr. Breckenridge: It is a copy from the Federal Reports.

Mr. Morgan: I thought it might be better for the witness to read what—the words you were referring to in there. You might point out—

Q. Mr. Boone, I was referring to this statement by the Court that Mr. Charles M. Rogers, Deputy Superintendent of Lorton—the Court says, "However, when examined whether he considered the race of prisoners as one factor in deciding which dormitory to assign them to, Mr. Rogers answered that he did." Now, all I want to know, do you agree or disagree with that statement?

A. Well, I disagree with Mr. Rogers.

Q. You disagree with that. Now, do you know Mr.—Mr. Sard, Edward Sard—Thomas R. Sard, Commissioner of Corrections for the District of Columbia—

A. No.

Q. —do you know him?

A. No.

Mr. Fletcher: I didn't hear his answer.

Mr. McBee: He said, "No."

A. No, I don't.

[fol. 178] Q. Let me read this statement in the notes of that case, which says that, "Mr. Sard testified as follows: 'We would like to see a reduction in the number of all-Negro dormitories. We believe that there is an advantage to both races if there can be interracial mixing to the extent that this can be done, and maintain the security and safety of the institution.'" Now, do you agree with Mr. Sard that the question of security and safety of the institution is part of the problem of mixing the races?

A. No, I don't.

Q. You do not; all right. Now, let me read you from the same report, "The testimony of Superintendent Weakley and Director Sard, on the other hand, reflected serious doubts about controlling the situation should total integration be ordered at this time." Now, I believe your testimony was that integration of the races was not a problem relating to prison security. Now, do you agree or disagree that there would be a problem?

A. Could I say that at this time is the statement there, the crucial statement; he said, "At this time." Now, if the atmosphere is poor, if management is not ready for it, if the people and you—and if the process of desegregation is handled poorly, why, yes, you would have some difficulty, possibly.

Q. All right. Now, this note says, "Moreover, controlling disturbances is not the only legitimate security concern of prison officials. Equally important is their desire to prevent disturbances from erupting." Now, do you agree with [fol. 179] Mr.—Superintendent Weakley and Director Sard that equally important with the integration of the races is the desire to prevent disturbances from erupting?

A. No, I don't; because I honestly believe that in an integrated situation, tension will go down if properly managed, and that incidences will be reduced. In fourteen years in Atlanta, we went through all kind of integration process, and I never saw any trouble at all.

Q. You do not agree with them in these respects?

A. No, I don't.

Mr. Morgan: No further questions.

Judge Rives: Mr. Boone, I would like to ask you one or two questions.

Witness: Yes, sir.

Judge Rives: Has your main, principal experience in desegregation of prisoners been with the Atlanta Federal Prison?

Witness: Atlanta Federal Prison is the main one; yes, sir.

Judge Rives: And do you have any information as to the proportion of Negroes and whites in that institution as *compared with* the proportion of Negroes and whites in the prisons of Alabama?

Witness: I don't have any information, because I don't know what the proportion is in Alabama. I do know that it is somewhat disproportionate in Atlanta, because we [fol. 180] get all of the District of Columbia incorrigibles when they can't keep them in Lorton, where this case developed, they send them to us; and when I first started working there, I ran D cell block as a guard, and it was nothing but Negroes there, and they were—I had D cell house—

Judge Rives: How many Negroes?

Witness: All were Negroes, and there were three hundred Negroes in that cell house, and co-worker ran the other one; it was about three hundred in that cell house. In addition to the D.C. Negroes and the New York, so to speak, we had southerners, and I would say the number was disproportionate, and the problems were more difficult, because you had sophisticated individuals from all over the country there.

Judge Rives: You mean you had a higher proportion of Negroes in Atlanta, you would think, than you would have of Negroes in the State penitentiaries here?

Witness: I don't know; I think when I said disproportionate I am talking about in terms of the general population. We have gone up as high as, oh, thirty per cent, which is pretty high.

Judge Rives: Now, was there any disorder whatever caused by the desegregation of the prison over there?

Witness: None caused by desegregation, but let's say I have broken up fights; most of them were white man fighting a white man or a Negro fighting a Negro. We have had—most of the unrest has been around poor food or poor management procedures. And when you have a [fol. 181] small percentage of men that are always looking for a weakness, and if the food goes down, the—the—the quality of it, then they start picking on that, and you are liable to end up with a food strike on your hands or something like that.

Judge Rives: Now, I know as a general rule the Federal Government is probably better heeled financially than the State Government is; are the Federal prisons more adequately staffed than the State prisons?

Witness: I would think so, more adequately staffed than most state prisons, other than possibly California or something like that.

Judge Rives: I think that's all. You have any questions?

Judge Lynne: No questions.

Judge Rives: You have any questions?

Judge Johnson: No, sir.

Judge Rives: That's all.

Mr. Morgan: You may come down, Mr. Boone. May it please the Court, now, I don't think that there will be any objection to this; Mr. Billingsley represents several of the plaintiffs in this case and knows where they are and their present status. I would like to read the statement into the record, and see if the counsel for the defendants will stipulate this, or, if not, we will put Mr. Billingsley on the stand.

Judge Rives: Yes.

[fol. 182] Mr. Morgan: Caliph Washington, plaintiff, is confined presently in the Jefferson County Jail. Johnnie Coleman is confined presently in the Kilby Prison. Willie Allen is confined presently in Camp Fayette, Alabama. Cecil McCargo is confined presently in Camp Childersburg, Alabama. And each of them is a Negro.

Mr. A. Frank Lee: (Nodded to indicate affirmative reply)

Mr. Morgan: That's right.

Mr. Fletcher: We would stipulate that is correct insofar as Caliph Washington is concerned; we have no knowledge about the others.

Mr. Morgan: Fine. And there is no objection to the stipulation by anyone else?

Mr. A. Frank Lee: (Shook head to indicate negative reply)

Mr. Morgan: That is it, your honor; we rest.

Judge Rives: Evidence for the defendants; Mr. Madison.

The Clerk: Hold up your right hand, please, sir. Do you solemnly swear the testimony you give in this cause to be the truth, the whole truth, and nothing but the truth, so help you, God?

Witness A. Frank Lee: Yes, sir.

[fol. 183] A. Frank Lee, a Defendant, having been duly sworn, testified as follows:

Direct examination.

By Mr. Madison:

Q. State your name?

A. A. Frank Lee.

Q. Your occupation?

A. Commissioner of Prisons for the Board of Corrections, State of Alabama.

Q. How long you been such?

A. I have been Commissioner since 1960 and Deputy Commissioner since 1954.

Q. When did you first start law enforcement work?

A. 1931.

Q. Where?

A. Eutaw, Alabama.

Q. With whom?

A. The County of Greene; I was Deputy Sheriff nineteen—

Q. Under your father?

A. Yes, sir.

Q. Then were you elected Sheriff of Greene County after that?

A. Yes, sir; I was, when I was twenty-three years old.

Q. What year?

A. 1934.

Q. How long did you serve as Sheriff?

[fol. 184] A. Twenty-four years, nine—ten months.

Q. Did you come from that position to the position you now occupy?

A. I did.

Q. In addition to those positions that you have occupied and the one you occupy now, what other experience have you had with other prison officials or other prisons in visiting them or having meetings or consultations or what not?

A. Well, I am quite familiar with the Atlanta Prison; I am quite familiar with, I would say, twenty-five to forty per cent of all the prisons in the United States, and my connection with them has been varied, from California to New York, and—

Q. What are the different institutions, penal institutions or correctional institutions, that are under your supervision in Alabama?

A. Kilby Prison, here in Montgomery; Trusty Barracks, here in Montgomery; Draper Correctional Center in Elmore County; the Frank Lee Youth Center, in Elmore County; the Julia Tutwiler Prison for Women, in Elmore County; Atmore Prison, at Atmore; State Cattle Ranch, in Hale County; and approximately twenty-five road camps that I can read from a list if you would like those listed.

Mr. Madison: Might we, your honor, introduce that list in evidence?

Judge Rives: Certainly.

Mr. Madison: I would like to use him about some of it.

[fol. 185] Witness: Yes, sir.

Q. Let's start with your Kilby Prison here; do you have any Negroes in that prison?

A. Yes, sir; we have—

Q. Well, now, explain that phase of it?

A. Kilby is our central hospital for the entire system. We have Negroes there confined in the hospital, and we have Negroes working in the hospital, and always have, to my knowledge.

Q. You have had white people working in the hospital, too?

A. Yes, sir; we have had as many as six hundred white, six hundred colored in the institution at one time.

Q. What about treatment; are they kept separate while they are being treated on account of race?

A. Yes, sir; the one—each—is a bay for each one of them, but it is a rather—it is quite a bit of intermingling, but even though there is no bars or room, there are open doors, and they—they do see and associate with each other there.

Q. Now, what other activity, if any, goes on at the Kilby?

A. The manufacture of the automobile license plates, we operate a large textile mill, and we have the twenty-two hundred acre farm there.

Q. Well, now, do the whites and Negroes there work together in that?

A. Well, for many years we worked an equal amount, or maybe more Negroes in the textile mill, but over the years [fol. 186] the supply has dwindled, and we—we only work whites there now in the mill. The Superintendent would much prefer the type Negro that we had for cotton mills, but we just don't—we just don't have them any more.

Q. Now, what type of institution is it at Atmore?

A. Atmore is a large prison farm, and it's devoted entirely to farming.

Judge Johnson: Will you ask him to classify each of them, Mr. Madison, as to close custody, minimum custody, prison farm, honor farms, and so forth?

A. Going back, then, to Kilby is maximum security entirely. The Trusty Barracks is adjacent to Kilby, but operates under entirely different system. It has its own Warden and Deputy and staff there, and the population there is about fifty fifty, approximately a hundred and fifty-six white and approximately a hundred fifty-six colored. Atmore is a maximum, medium, and minimum security institution having both white and colored prisoners, of varying population, based on our work needs, or it may have—I don't remember within one prison as opposed to the other; this may change today, it may change tomorrow, but it is never stable.

Q. Now, do you have a school that is conducted at Atmore?

A. We—we have a vocational rehab program within there; we have our—our main schools are at Draper Correctional Center. We have basic education program at—at Atmore, but for white and colored, most of our school-
[fol. 187] ing is carried on at Draper, for many reasons.

Q. Well, wherever these rehabilitation programs or schools are being conducted, wherever they are being conducted within the prison system, do Negroes and whites both attend?

A. Yes, sir; we had them on the—a large group among a group of fifty-eight that graduated on the 23rd.

Q. What about teachers and instructors?

A. Well, let me see, it is—it's—they have several Negroes on the staff; I believe one is—is a teacher. This is a Federal program that is carried on within the confines of the prison system. I can't be so definite about it, because the people actually do not work for me, but we permit them to function within the prison compound.

Q. Now, proceed with some of the other institutions in the—

A. State Cattle Ranch is an all-white institution, at the present time. We have a capacity there for sixty, and at the present time there are only twenty there. This is on account of the—the population decrease and the type of men that we can assign there; we don't have sufficient to staff it. The Frank Lee Youth Center is all white, and it is down to a population of abouty twenty-eight for the lack of type prisoners coming in. And, of course, Atmore—Draper is—has both, I think, it is about a hundred colored there now and about five hundred whites. Julia Tutwiler is for both colored and white women, and we do, have for many, [fol. 188] many years, housed Federal prisoners that to the best of my knowledge were classed incorrigible and sent to Alabama under contract; had as many as twenty-two at one time, both white and colored.

Q. Now, the girls, where the girls stay, both white and colored, are they segregated?

A. They sleep in different quarters, work together.

Q. Work together and sleep in different quarters?

A. Yes, sir; work in the factory, laundry.

Q. What about the eating facilities; do they eat together?

A. Separate.

Q. Eat separate?

A. Yes, sir.

Q. By the way, when I asked you about—about the eating, in the operation of the prison system, is there any problem involved in—at the eating hour, with reference to disorder or anything occurring; what has been the history in the prisons with reference to that particular time?

A. It has been—while we haven't had a tremendous amount at the eating hour, it has been fairly well accepted that this is—is a dangerous time, because of the large mass of people that are together, which is well pointed out in one of—what is considered one of the best institutions in the country, Joliet, where you eat facing a large number of machine guns; I don't know just how many, but it is a

[fol. 189] column down through there where—and I—I don't think this is necessary in the Alabama system, they don't need to; we don't feed anybody under a gun or anything like that; not a gun in the institution; and I don't think it would be necessary; but it is more possible then than most likely any other time, in my opinion, even though we haven't had that problem.

Q. Now, what are some of the different types of prisoners that are in your institutions or under your supervision?

A. We have just about every type prisoner that you can possibly have, larceny, forgery, murder, mayhem, twelve different sex crimes, and it would be hard to pick out a crime that we don't have someone committed for.

Q. Now, what are some of the things that arise in the prisons, themselves, that they were not convicted for; do the offenses—to illustrate what I mean, do they get hold of dope or anything like that on occasions?

A. Yes, sir; they do, this is—does happen.

Q. And I believe one day—strike that. And I saw a display of different kinds of weapons that you had in your office one day I was out there?

A. Yes, sir.

Q. Where were they taken from?

A. They were taken from beds and lockers and work areas, and this is a constant threat. Under the best supervision that we have, it still happens; they—they sly enough—

[fol. 190] Q. Is that true, also, for Negro and white?

A. Yes, sir; both.

Q. There is no difference?

A. No, sir. They—they tell me that they can make them faster than General Motors can make cars, and sometimes I believe it, and this comes from either one.

Q. Well, do—in your experience, do—do those things come from a desire to escape rather than inflicting bodily harm on somebody within the system, or both?

A. I think it is more desire to inflict on another prisoner—

Q. You do?

A. —rather than an official; I do; yes, sir. They have a lot of petty jealousies, fights, and so forth, that they feel like they have to defend themselves.

Q. Now, what areas under your supervision would you say now are entirely segregated on the basis of race or color?

A. State Cattle Ranch, Frank Lee Youth Center, and twenty-three or four out of the twenty-five—twenty—all the camps but one; there is one white camp.

Judge Rives: You say those were desegregated or segregated? I didn't understand.

Q. They were segregated?

A. Segregated; yes, sir.

Q. All the rest that you haven't enumerated which are under your supervision and control are desegregated?

[fol. 191] A. To some extent, one extent.

Q. To some extent?

A. Yes, sir. Now, the road camps, one reason we have as many of those, I don't have the white prisoners available.

Q. Could you give the Court some basis of the—of the percentage of desegregation in these different places, if you have it; how many whites and how many Negroes, what I am trying to say?

A. Well, in the Trusty Barracks, right here in Montgomery, this is about fifty fifty.

Q. What does that run; just give the number if you can?

A. That is a hundred and sixty-two whites and a hundred and fifty-four colored in that particular institution. At the—at Atmore there are forty-eight whites at this time and one thousand and fifty colored; but not too long ago we had as many as two hundred or two hundred fifty whites there, but for various reasons they were moved out; some of them disciplinary problems, some of them more to the convenience of the prisoner, whether he be white or colored or—so that visitors could visit them more easily, and we—we just change this about from day to day. At

Draper there are five hundred and seventeen whites and ninety-two colored. At Kilby, now, there are thirty people —colored there assigned, other than the twenty, thirty-four that are in the hospital there. In the Youth Center is twenty-six whites, no colored. And in the Quarantine Receiving Unit, we have thirty-four whites and seventy-three Negro.

[fol. 192] Judge Rives: Mr. Madison, will you bring out from Mr. Lee to what extent his conduct as Commissioner of Prisons is influenced by the statutes relating to segregation of prisoners.

Q. Mr. Lee, there are certain statutes that you are familiar with on the books—

A. Yes.

Q. —which require the separation of the races.

A. Yes, sir.

Q. Now, has your policy been to follow those statutes, and has this separation occurred in these places by virtue of those statutes?

A. Yes, sir.

Q. Well, I will ask you this; if there were no statutes which required the separation of the races, and the Court said that the remaining portions of the institutions under your supervision must be desegregated, would they need any injunctive process against you to carry out that order of the Court?

A. No, sir.

Q. And in that event, how long, in your judgment, would you need to follow the direction of the Court in that respect?

A. This would be most difficult for me to answer, but I would—we—we might do it in a month, we might do it in two months, it could—it might take a year; it all depends on when—I don't know just how this will be received, I will be—quite frankly; you got some that will like it, some will dislike it; we would make every effort to make [fol. 193] it—make it function, but I would hate to think that we—we would have to do it in less than a year's time,

even though if we were to get such order, why, we would start possibly tomorrow.

Q. Would you think that if you were given a period of time in which to start in places where you have not already started and complete it a certain period of time and then report to the Court your progress in that connection, you —you think there would be any objection from your standpoint to that, if the objection was made to the Court?

A. Allowed sufficient latitude during that period of time to make the proper decisions and separations, why, I would say yes.

Q. And do you anticipate there will be complaints from the prisoners and others, regardless of what you may do?

A. Yes, sir. It is now.

Q. What are the—what are the problems that can arise in—in prison systems under your jurisdiction—take the worst one, we will say where you have the worst type of prisoner, that could arise, that is not on the basis of race or color, that might require separation?

A. These are these petty jealousies and fights and periods of dissatisfaction that whites have with whites and colored have with colored. I have got some boys in tight security that have killed as many as three people in prison, and I believe would kill another one in a week, I believe, if they were out, and they have all killed members of their race. These people are quite a problem. They [fol. 194] are not—not from a racial standpoint at all. I have got white people that I can't dare put together. I—I think that I can't; at least, I am afraid to.

Q. Do you have problems that arise under your supervision and in your institutions that require immediate decisions, immediate exercise of some judgment or discretion on your part right then and there?

A. This is true, and—and ten per cent of our prisoners require ninety per cent of my time.

Q. Would you think—by that would you mean ninety per cent of them wouldn't give you as much trouble in a desegregation movement as the other ten?

A. No, sir; I do not; that is—that is correct; we have three categories of prisoners, in my opinion. There are eighty per cent that want to do their time under most any conditions, get out, and go their way. There are another ten that are not going to abide by any rule or regulation that anyone sets up. And there is another very tractable group that will rob a bank or go to Sunday School, all depending on who asks them first; they are right there in the middle, and that is just about the way they are.

Mr. Madison: Would you mind passing that over? We have been using it. Now, I would like to offer this as Defendants'—Exhibit 1, Exhibit for the defendants, Lee and the Board of Corrections.

[fol. 195] Judge Rives: (Nodded to indicate affirmative reply)

(Mr. Madison and Mr. Morgan conferred at counsel table)

Judge Rives: It may be received in evidence and so marked.

Mr. Madison: I will give it back to you; I may ask him something else.

Q. Let me ask you this; is most of this information that you have given today from this memorandum you prepared here, was it also given in answers to interrogatories?

A. Not to my knowledge. This is a weekly report that I get; I just brought it with me.

Q. Weekly report?

A. Yes, sir. It is printed each Wednesday.

Mr. Madison: Hand him back that; they may ask him—pass this.

Q. Can you think of anything else that you might wish to state to the Court with reference to the operation of the prison system under your jurisdiction and control germane to this suit which you have not stated?

A. Mr. Madison, I think not; no more than as long as it is clearly understood that we feel that we will have to have some wide area of discretion in making an effort to operate where, if the State law is laid aside, there will be some problems come up that will take some—some quick action, I think, and we will—we will have the cooperation of all our people, our top people, I know; provided there [fol. 196] is some area of—for us to move in.

Mr. Madison: I believe that's all.

Judge Rives: Any other questions any of the defendants care to ask Mr. Lee?

Mr. Fletcher: Yes, sir.

Judge Rives: All right.

By Mr. Fletcher:

Q. Mr. Lee, I ask you, as opposed to separation on the basis of race, in your opinion, is it necessary to classify or designate prisoners because of race?

A. Well, it might possibly be, but you could—you can—you can handle that easier than you can the other, because some of the best jobs that we have in our system are—Negroes hold them.

Q. Well, for your record keeping, is it necessary that you distinguish on your records whether a prisoner is white or colored?

A. You mean for sake of records?

Q. Yes, sir; yes, sir; as opposed—

A. Under the system that we have been operating under, it is necessary identification to—

Q. Well, in your opinion, is it necessary that you be able to classify a prisoner as white or Negro?

A. Due to the fact that we are so detailed in records, I would say that I would require it if—unless I was forbidden to do it.

Q. You keep records on the other physical characteristics, do you not?

[fol. 197]. A. Yes, sir; this is for the sake of identification and other things.

Q. For identification while they are in prison and—

A. Or—yes, sir; or if they are out on parole or escape or something like that.

Q. What other factors do you consider in making your assignments, other than race; for instance, do you put first offenders in the same facilities with repeaters?

A. Yes, sir; we—we have, by necessity, had to; this is—

Q. Do you think—

A. —I don't approve of that, but we have had to do it.

Q. What other factors do you consider important in making your assignments?

A. Well, I don't want to appear facetious, but I will tell you; the number one is the location from where he was sentenced is the number one determining factor here; we can tell more about that than most anything we know about him.

Q. Do you mean within the State of Alabama?

A. Yes, sir.

Q. For instance, Jefferson County?

A. Yes, sir; and within the State, and to some degree outside, but very definitely the large degree of success, whether it is Walker, Greene, Sumter, Hale, Jefferson, or where.

Q. Without laboring the point, would you run through as quickly as you can other factors that you consider?

[fol. 198] A. Well, we consider, number one—I won't say number one, but a strong factor, is where—where he came from, was he born there, or did he—was he a migrant, is he a transient?

Q. And his—whether he is white or a Negro?

A. Yes, sir; regardless, this is—same procedure all the way through is identical. Then have we had him before? We—have we checked his F.B.I. record to show whether he served time in Atlanta or California or where, or did he escape while they had him? What was his record? We write there to get his record. Did he escape while we

had him? What was his work record? How did he get along with other people within the institution? Did he make good on parole? Whether he was paroled one, two, or three times. And those are about the principal things.

Mr. Fletcher: That's all.

Judge Rives: Any questions, Mr. McBee or Mr. Breckenridge?

Mr. McBee: No, sir.

Mr. Breckenridge: No questions.

Cross examination.

By Mr. Morgan:

Q. Mr. Lee you have spent about your whole lifetime in law enforcement work and penal work, have you not?

A. Yes, sir.

Q. In those capacities that you have mentioned to the Court earlier, you have dealt with wardens of city jails [fol. 199] and sheriffs all over the State, I trust; is that correct?

A. Yes, sir; I have.

Q. And your duties in Greene County as Sheriff were substantially similar to the duties of other—every other sheriff in the State of Alabama, were they not?

A. Yes, sir.

Q. And generally, the wardens of city and town jails, their duties are substantially similar throughout the State with other wardens of city and town jails, are they not?

A. Within certain limitations.

Q. Based on—

A. There are some differences.

Q. It would be differences based upon the size of the city, I should think—

A. Yes, sir; yes, sir.

Q. —and the prison population and that sort of thing—

A. Yes, sir.

Q. —but aside from that, there would be no basic distinctions between these particular offices as because of where they are located, are there?

A. Well—

Q. Excluding the population factor?

A. This—this is hard to say; I—I would say there are some—some great differences in the—in the management and the way they are operated, by necessity; what is the [fol. 200] budget in this area, as opposed to Birmingham, and these factors.

Q. How much money they have would be a difference, such as—

A. This has a lot to do with it, whether the jailer's wife is doing the cooking or whether they got a chef or what, you know; these things figure in it.

Q. But other than that sort of difference, there are no differences as far as you know?

A. No, sir.

Q. That's fine. Now, do you keep any Federal prisoners in your State penal institutions?

A. Yes, sir; we have—I don't know whether we got one in Tutwiler, but for years we have kept them, for more than twelve—.

Q. And I think you do that under a contract—

A. With the Government.

Q. —with the United States?

A. Yes, sir; this is correct.

Q. And that contract, I believe, is in the interrogatories —answers to interrogatories—

A. Yes, sir.

Q. —here? Now, you mentioned that you do have a vocational rehabilitation program—

A. At Draper.

Q. —at Draper?

A. Yes, sir.

Q. And from that vocational rehabilitation program, I [fol. 201] wonder if you have had any experience with recidivism?

A. Oh; well, we are making some comparison; this is a research program—

Q. Yes, sir.

A. —and the results—I wouldn't be in a position to—I don't want to say, "Divulge," but we really don't know yet, because it has been going on, the National Institute of Mental Health, for about four and a half years, the M.D.T.A., for about a year or so; I think it would take a longer period of time; I would say, though, that the rate of recidivism for the group that finished these programs are going to be considerably less than the others.

Q. And those classrooms are integrated, are they not?

A. Yes, sir.

Q. And you—you are familiar with Title Three of the Civil Rights Act of 1964, which requires that public institutions basically be not discriminatory on the basis of race—

A. Yes, sir.

Q. —and, of course, Title Six, with respect to Federal funds—

A. Yes, sir.

Q. —and contracts?

A. We have met all their requirements.

Q. Fine. With respect to the compliance statements, have you filled out any compliance statements with the—a Department of the United States Government?

[fol. 202] A. I have.

Q. And the United States Government continues its assistance to you?

A. Yes, sir.

Q. And were those compliance statements basically relating to the vocational rehabilitation program?

A. They were; yes.

Q. Now, you stated—I do want to ask you this question about Draper; living quarters at Draper are racially segregated, are they not?

A. To this extent; the—on this balcony sleep the colored, here sleep the white—

Q. Fine.

A. —in the same cell—they are—there is a separation.

Q. In other words—

A. It is in the same cell block, but one is up on this level, one is here.

Q. And they eat separately, do they not?

A. Yes, sir; from the—served from the same table, but eat separately; yes, sir.

Q. All right. We were talking a few minutes ago about the issue of injunctive process against you.

A. Yes, sir.

Q. And would you, the members—you work for the Prison Board, do you not?

A. Yes, sir; uh. huh.

[fol. 203] Q. The members of that Board are appointed by whom?

A. By the Governor.

Q. And the Governor of the State of Alabama does have a stated policy, does he not, regarding racial segregation?

A. I think I have read that.

Q. Yes, sir.

A. He never has—I never have discussed it with him.

Q. Now, you state that at the Cattle Ranch you have an insufficient number to staff it really correctly, an insufficient number of people, yet all the people who work there are white?

A. Yes, sir; uh, huh.

Q. There are many Negro prisoners, I should think, with farm background and backgrounds which come from, say, Greene County, for instance—

A. Yes, sir.

Q. —who work with cattle—

A. Yes, sir.

Q. —and they would be qualified to fill those positions at the Cattle Ranch if it were not racially segregated.

A. We have some, if I could spare them from the road camps where we earn—as part of our livelihood.

Q. But you—you see no distinction between—

A. But this area is not where I would expect any trouble.

Q. Where would you expect the trouble?

A. In your maximum security.

[fol. 204] Q. And you state you already have trouble there now?

A. Well, not necessarily on account of race; there is trouble between each other, but not—not—no racial problem to speak of—

Q. Right.

A. —no.

Q. Would you tell me a little bit about the Frank Lee Youth Center?

A. This is for the youthful offender under twenty-one years old; this institution has only been open about two years and four months.

Q. What—do you have any special training at the Frank Lee Youth Center?

A. Yes, sir; in forestry, basic education, and up through the eighth grade, but this population is—is small, again due to the insufficient into—the average age of the prisoner coming into Alabama in the last twelve months has been twenty-nine years old, and we have confined these to twenty-one, and it has given us a little problem there.

Q. I notice here that according to the defendants—Defendant Lee, et als., Exhibit number 1—I am not sure what it is—there are twenty-six white males at the Frank Lee Youth Center—

A. Yes, sir.

Q. —is that correct? And no Negro—

A. That is correct.

Q. —males? Yet, this is basically an instructional insti-

[fol. 205] tution, is it not?

A. No, sir; not to the extent that Draper is.

Q. Not to the extent that Draper—

A. We have not been able to gain the population there that we had hoped to, and I can't argue with that; and there is nothing finer than to be able to close down a prison.

Q. Sure.

A. And we—we just haven't—we figured there for a hundred and four, and I predict we will never get them, white and colored combined.

Q. All right, sir; just one moment, if I might. You stated that you—you did have vacancies in the textile mill, and you used to work Negroes and whites together there, as I recall it; I think we were discussing Atmore then—

A. Yes, sir.

Q. —and over the period of years it has now gone to an all-white—

A. Yes, sir.

Q. —operation?

A. We—we no longer—our population is turning over now every two years and eight months in number, and we are not receiving Negroes from textile areas sufficient to put in that already have the training to place there. We just—just not getting them, I don't know, just like we are not getting electricians and plumbers and some others that we used to.

Q. All right, sir; I want to ask you one more question [fol. 206] with respect to the hospitals.

A. Yes, sir.

Q. What kind of work do the Negroes who are employed there do?

A. They do—they wait on patients; we have both white and colored doing the same identical thing.

Q. Same identical kinds of work?

A. Yes, sir; yes, sir.

Q. And the patients are segregated in that hospital?

A. They are; we got three wings, one for tubercular—now, the tubercular is white and colored; then we have a wing for colored; and we have a wing for the white.

Q. Uh, huh; and within the tubercular, they are separated by race?

A. No, sir.

Q. They are not?

A. No, sir.

Q. Are they integrated, one bed for Negroes, and, say—

A. I haven't looked at them right lately, but they are all in the same room; yes, sir.

Q. They are all in the same room?

A. I only have about eighteen, and this is spread—

Q. All right, sir. At the Julia Tutwiler Prison, what kind of work do Negro women do, and the work—

A. They all do the same—same kind of work.

Q. Negro and white women do the same kind of work?

A. Yes, sir; they work in the hospital, factory, laundry, and so forth.

[fol. 207] Q. All right, sir. Do we have on that Exhibit 1 the Draper breakdown racially?

A. Yes, sir; sure do. Five seventeen, ninety-two.

Q. Five seventeen what race?

A. White; ninety-two colored. This is figured—this is based on their needs in the school. Now, this week, I am moving seventeen more colored out of Atmore into there.

Q. Uh, huh.

A. In fact, if they needed twenty, I would move twenty; if they needed ten, it would have been ten.

Q. Yes, sir.

A. Yes, sir.

Q. And would you also state for the record the—the prison population breakdown, Negro to white?

A. One thousand, five hundred and forty-six white; two thousand, five hundred ten colored.

Mr. Morgan: Thank you, sir; that's all.

Judge Rives: Any further questions, gentlemen?

Mr. Breckenridge: Mr. Lee—excuse me.

Mr. Fletcher: None.

Redirect examination.

By Mr. Breckenridge:

Q. Mr. Lee, Mr. Morgan asked you about city jails in the State of Alabama.

[fol. 208] A. Yes, sir.

Q. Now, you are familiar with the city jails—I believe it was Greene County where you were Sheriff?

A. Yes, sir.

Q. You are familiar with the city jails in Greene County?

A. They had none.

Q. They did not have any in Greene County?

A. No, sir.

Q. Where else in Alabama were you familiar with the city jails, city and town jails?

A. Oh, I would say on account of some recent studies I have made I am pretty well familiar with—it is a long list; I can't recall.

Q. All right, let me ask you this; what—what—you are familiar with the Birmingham City Jail in general?

A. Oh, yes, sir.

Q. What differences do you find between the Birmingham City Jail and a small town jail?

A. Well, you mean other than volume of business carried on?

Q. Well, you do find a difference in the volume of business?

A. Yes, sir.

Q. All right; now—

A. Where they may have fifty drunks there on Saturday night, you might have two down in Sumter or over in Coosa or something like that; they are—it is a large volume of business compared to one of the smaller ones.

[fol. 209] Q. What are the differences as to the facilities for keeping the drunks and, say, all other prisoners?

A. Well, in the small city jails, you usually have two, three, or four cells, that is about all; and your Birmingham Jail, Mobile, and I think the new one at Huntsville, they have what they call a tank—

Q. Yes, sir.

A. —in some terminology I think they use.

Q. All right; what is the difference in the supervisory personnel between them?

A. Well, it's considerable difference; they are more highly trained, particularly in the Birmingham Jail.

Q. They are more highly trained in the Birmingham Jail?

A. Yes, sir; you don't find this in the—in the small ones; it is sort of a come and go situation.

Q. All right; what about—what about the supervision of the prisoners in the small jails?

A. It's poor.

Q. Poor; now—

A. In the average small jail as I know it.

Q. Is it a fact or not a fact that in the small city—city and town jails in Alabama there is—that there is less supervision of prisoners than there are in the Birmingham City Jail?

A. There are definitely; yes, sir.

Q. All right; is it still a practice—I mean is it a practice [fol. 210] in the small town for a prisoner to be placed in the jail and there not be any—any—anyone stationed at the jail on a full time basis?

A. I would—yes, sir; it would be entirely possible.

Q. There are, then, places like that?

A. Yes, sir.

Q. And the prisoner, the night—is it a practice in small towns for the Night Marshal to check the jail to see how things are going on during the night, rather than have somebody in supervision throughout the night?

A. That has been my experience.

Q. That has been your experience?

A. Yes, sir.

Q. Then you would—in your opinion, would you say, in your opinion, there is a substantial difference between the smaller town jails in Alabama and the city jails and the Birmingham City Jails in facilities, supervision, and the type of—and the—the type of control between—between these?

A. Yes, sir.

Q. Now, is there any difference in the community—the community in a small town jail; I know—I notice that you

testified that you first—your number one thing was to find out where the prisoner was from?

A. Yes, sir.

Q. And that told you a lot about him?

[fol. 210a] A. Yes, sir.

Q. All right; did that tell you a lot about him because of your knowledge of—of the mores of the community or the —or the preponderance of beliefs in the community or the customs of the community; is that where you get your information from?

A. Yes, sir.

Q. Now, is there a difference in the customs and—and beliefs of communities in Alabama in some of the smaller counties and towns different from those in the City of Birmingham?

A. Based on our experience, there are—there are very definite divisions, several categories.

Mr. Breckenridge: That's all.

Mr. Madison: I have one other thing to ask you, Mr. Lee; the Court might like to know.

By Mr. Madison:

Q. What are the plans, if any, in existence for changing location or additional buildings or new buildings in the prison system of Alabama?

A. Well, we will take bids December 8 for a new institution in Atmore, Alabama, known as the Holman Unit, which will house five hundred prisoners, both colored and white. Plans will be immediately prepared after that for the new Diagnostic Center over in Elmore County, where all prisoners, both white, colored, all but females, will be received there. There are very definite plans for closing one institution right away where there are three hundred [fol. 211] prisoners, and a hundred and fifty white and a hundred and fifty colored, give or take a few, and place them in the maximum security at Kilby. And this is the consummation of twelve years of planning. And then there

is very definite planning ten years ahead from this date for separation of the various types of prisoners, and I am speaking specifically about age, types of crime, and not—not racially.

Mr. Madison: That's all.

Recross examination.

By Mr. Morgan:

Q. Mr. Lee, you stated about the city jails—say in Birmingham, the City Jail having more highly trained personnel than other city jails in Alabama?

A. Yes, sir; than the smaller rural other city jails.

Q. Other rural small town jails?

A. I wouldn't say he's got better than Mobile or better than Huntsville or something like that, but the smaller calaboose type jails.

Q. Right; you ran the jail in Greene County for some years, didn't you?

A. Yes, sir; all my children were born—

Q. When you had a prisoner in that jail, you never left anybody there without somebody being there, did you?

A. No, sir.

Q. That is pretty poor practice, isn't it?

[fol. 212] A. What, to leave them without the—

Q. Leave an unguarded jail?

A. I would certainly think so; we don't advocate that at all, but it happens.

Mr. Morgan: All right, sir; that's fine.

Redirect examination

By Mr. Fletcher:

Q. Mr. Lee, let me ask you if the general differences you expressed as to Birmingham Jails and small town jails, if

this same difference would apply to Jefferson County Jails and small county—rural county jails?

A. Very definitely; yes.

Mr. Fletcher: That's all.

Recross examination.

By Mr. Morgan:

Q. You wouldn't say that the—for instance, with respect to county jails in Alabama, that one sheriff was more, better trained than another sheriff, would you, or more qualified—

A. Yes, sir.

Q. —to keep the jail?

A. Yes, sir; some have been in twelve, fourteen, fifteen, twenty, twenty-five years; some just elected.

Q. Right; so you would base it largely on experience?

A. Yes, sir; well, you would have to, I think.

Q. And I trust that your comment there on differences [fol. 213] would be that there are differences in facilities, as I understand it?

A. There are; there are.

Q. And supervision?

A. Difference in facilities—there are differences in experience of the man operating it and differences in his opinion as to how it should be operated and his willingness to operate it as it should be; they have some very fixed ideas in some areas.

Mr. Morgan: I am sure.

Judge Rives: Mr. Lee, there is no State overall supervision of local prisons, is there or not?

Witness: You mean local jails?

Judge Rives: Yes, sir?

Witness: Yes, sir; these are—these are under my jurisdiction, but I don't—I don't have sufficient staff to do the type job that should be done with it. We—when we get any complaints, we go. And we can only inspect city jails

over ten thousand, the city of ten thousand, unless requested by the Governor.

Judge Rives: What I was thinking of, the plan has been suggested here of making some declaration of what the law is and permitting the force to be made further down.

Witness: Yes, sir.

Judge Rives: Who would we look to for reports from the county and city jails? Could your Department make those reports to us?

Witness: Yes, sir; this is some of the planning that we [fol. 214] have been doing, in anticipation of something like this.

Judge Rives: I see.

Witness: We could do that; yes, sir.

Judge Rives: All right, sir.

Mr. Madison: Defendant Lee and the Board rest, your honor.

Judge Rives: All right.

Judge Johnson: Mr. Lee, let me ask you a question.

Witness: Yes, sir.

Judge Johnson: Do you have any statutory authority to supervise the city jails throughout the State in cities with population less than ten thousand?

Witness: No, sir.

Judge Johnson: Do you have any statutory authority to supervise the operation of the county jails—

Witness: Yes, sir.

Judge Johnson: —of less than ten—all of them?

Witness: Yes, sir.

Judge Johnson: All right. The only jails in the State, then, that you do not have the statutory authority to supervise are those located within the cities that have population of less than ten thousand?

Witness: That is correct.

Judge Johnson: Are there any provisions in the design of the new Holman facility being constructed at Atmore—

[fol. 215] Witness: Yes, sir.

Judge Johnson: —that are based upon the segregation policies, whether it be by custom or by statute?

Witness: Well, to be quite frank with you, it was based for a mixed—planned for a mixed population.

Judge Johnson: And that is the design that is drawn up that you are talking about?

Witness: Yes, sir. Bids are being taken on it on the 8th.

Judge Johnson: That would be your primary State penal institution for maximum security, once it is constructed?

Witness: It will be; yes, sir. For five hundred people.

Judge Johnson: And you have it designed to be on a completely desegregated basis?

Witness: That is correct, sir.

Judge Johnson: That is eating and—

Witness: Yes, sir.

Judge Johnson: —and quarters and everything?

Witness: Yes, sir.

Mr. McBee: Your honor, I wanted to ask him a question. I didn't quite hear him when you asked him the question.

Redirect examination.

By Mr. McBee:

Q. Did you say you had supervision over the city and town jails?

[fol. 216] A. In a population where the city is over ten thousand.

Q. Over ten thousand?

A. Yes, sir; if it is under ten thousand, only do it by executive order from the Governor. I have no right at all; they can't go in unless that they request it.

Q. That is below ten thousand?

A. Yes, sir; below ten thousand. Considerable work is being done in this area now. We are not—we are not any worse off in Alabama than they are in North Carolina. I have got a letter from there this morning pleading for aid and assistance on how to set this up, and we are going to all get in line, I think, and try to work out the plan. We

are doing as good a job with it, except a few states in maybe the east.

Judge Rives: Some other questions?

Mr. McBee: No, sir; that is all; thank you.

Judge Rives: You may come down, Mr. Lee; thank you.

Mr. Fletcher: Judge, we would like to call Sheriff Bailey.

Judge Rives: All right.

The Clerk: You solemnly swear the testimony you give in this cause to be the truth, the whole truth, and nothing but the truth, so help you, God?

Witness Melvin Bailey: I do.

[fol. 217] MELVIN BAILEY, a Defendant, having been duly sworn, testified as follows:

Direct examination.

By Mr. Fletcher:

Q. Would you state your full name for the record?

A. Melvin Bailey.

Q. You are the Sheriff of Jefferson County?

A. Yes, sir.

Q. You have the supervision and control of all of the Jefferson County Prisons?

A. Yes, sir.

Q. Including what prisons?

A. Birmingham and Bessemer Division.

Q. Are these facilities maintained on a racially segregated basis?

A. Yes, sir.

Q. What is the difference in the facilities for the white and for the Negro?

A. No difference.

Q. Do you use the same facilities for white at one time and for Negro at another—

A. Yes, sir.

Q. —within the jail in Birmingham?

A. I might correct that, Mr. Fletcher, in that we have certain designated blocks that have traditionally been for Negro on one end and white on the other.

[fol. 218] Q. Are these then sometimes—do you put white in the Negro block if your white population exceeds the Negro population?

A. Yes, sir.

Q. And the same cells might be used for white on one occasion and for Negro on another?

A. Yes, sir.

Q. How about the eating facilities?

A. The eating facilities are such that it is carted in, and they eat within the block.

Q. Within the cell block—

A. Yes, sir.

Q. —where they are confined? Do they have common bathing facilities?

A. Yes, sir.

Q. They both use the same bathing facilities?

A. Within the block, same—similar facilities.

Q. All right. Do you have any serv—any part of your activities within the jail at all open to both white and colored?

A. Purely in the trusty assignment within the duties, that is to assist the block wardens for maintenance of discipline and order within the block. It might be equal amount on the front as they come in for doctoring and so on, down through the assignments.

Q. The trusties might be on an integrated basis; do they sleep in the same cell blocks with the other—

A. No, sir; no, sir.

[fol. 219] Q. Do you have segregated library, library facilities, for example?

A. No, sir; it is not segregated, but it is used at times differently for the Negro and the white.

Q. How about religious facilities and services?

A. Of late we have integrated religious services on Wednesday each week.

Q. How long have you been in law enforcement?

A. Twenty odd years now.

Q. Prior to becoming Sheriff of Jefferson County, what was your experience?

A. Fifteen years with Birmingham Police Department.

Q. In that capacity, you were familiar with the Birmingham Jail?

A. Yes, sir.

Q. And also the County Jail?

A. Yes, sir.

Q. In your opinion, is there any necessity for classifying prisoners on the basis of race, as opposed to segregating and separating?

A. I think it is very necessary in the vein of law enforcement; this is, I think, very vital in law enforcement theory; yes, sir.

Q. Is there—are there instances when prisoners within the Birmingham—I mean the Jefferson County Jail are without supervision for long lengths of time?

A. We try not to let that happen.

Q. How about at night?

A. No, sir; we have block wardens wherever we have [fol. 220] assigned groups from whatever number up to seventy-six in a given block.

Q. Are there situations in the Jefferson County Jail where you think it is desirable to segregate some prisoners from others on the basis of race?

A. Desirable, yes; depending on the circumstances of the individual that you might pose as hypothetical case, his unruliness or condition; yes.

Q. Along with his personality?

A. Yes, sir.

Q. This is just one factor that—

A. Be he Negro or white, this is desirable at times.

Q. If he tends to be unruly and a trouble maker, do you find it more desirable to segregate him for this reason or for race?

A. I would rather use the word, "Isolation," purely for the sake of safety.

Q. Do you have facilities in the Jefferson County—

A. Yes, sir.

Q. How many; you know?

A. We have—I believe it is eight cells that we use for this purpose. This would have to do with demented, while we are holding for transit to Bryce or Mount Meigs or such.

Q. These—these isolation cells used interchangeably for whites and colored?

A. Yes, sir.

Q. Of course, there is only one man in it?

[fol. 221] A. In each block—or cell.

Q. Let me ask you what factors you consider in determining the safety and security of the prisoners, in your duty to maintain such?

A. I think it is purely a matter of judgment on the man that is there and on the scene.

Q. Well, does his offense, the offense of which he is convicted, constitute one of the factors?

A. Definitely.

Q. Does his age?

A. Definitely.

Q. Does whether or not he has committed other offenses before?

A. Yes, sir.

Q. Then the personality—all of these things go up—go to give you a key as to what his personality is or might be, do they not?

A. Based on the things that Mr. Lee mentioned there, where he is from, what his record is, if you know at the time, it is helpful immediately; if you don't—

Q. Is his race—

A. —if you don't, you better get to know it.

Q. Is race one of these factors that you then consider?

A. Not necessarily; it could be, depending again, Mr. Fletcher, on the case and the circumstance.

Mr. Fletcher: I believe that's all.

[fol. 222] Cross examination.

By Mr. Morgan:

Q. Do you separate visiting hours on the basis of race?

A. Yes, sir.

Q. So, as I take it, the gist of your testimony, there are interchangeable facilities, but they are used by either members of the Negro race, for example, or for the white race at one time, but not on an intermixed basis?

A. Right.

Judge Rives: Any other questions of Sheriff Bailey? If not, you may come down.

Judge Johnson: May I ask him?

Judge Rives: Just a moment, Mr. Bailey.

Judge Johnson: Sheriff, I understand that you do classify and consider it a practice to classify prisoners because of age or the offense that is committed or their personalities or their criminal record—

Witness: Yes, sir.

Judge Johnson: —one or more of those things?

Witness: Yes, sir. All of them most of the time, if not all the time.

Judge Johnson: Is there any instance in your experience where it is necessary to classify solely because of race, without regard to those other things? In order to maintain and operate your prison properly?

Witness: I would have to say no.

[fol. 223] Judge Johnson: All right.

Judge Rives: Any other witnesses for the defendants?

Mr. Fletcher: That is all for the defendant, Bailey.

Judge Rives: You gentlemen have certain documentary evidence you want to introduce?

Mr. McBee: Judge, I believe, of course, our—our defenses were—we weren't sure whether it would be ruled upon before the issues on the main question or not, but we did raise the question of standing, and the question of venue, and the question of representation, but in the

event that we do get beyond that, we would like to put Mr. Austin up for a few questions, very few.

Judge Rives: Well, we will carry those questions with the case.

Mr. McBee: Yes, sir; I understood that.

Judge Rives: There will be no waiver by your proceeding with the merits of the case.

Mr. McBee: Yes, sir. We would like to introduce, may it please the Court, certificate of the Clerk of Jefferson County showing the disposition of the cases against Mr. Thomas E. Houck, Jr., and Mr. Hosea L. Williams. There are four of those, and we would like to have them identified with whatever the appropriate method would be as Exhibits on behalf of the respondent or defendant, Austin. We would also like to—

Judge Rives: Those will be—those will be admitted in evidence.

[fol. 224] Mr. McBee: We also would like to have on the record a stipulation that the averments contained in paragraph one of the eighth defense of the respondent, Austin, is correct, the action taken with reference to the cases having transpired after the filing of this lawsuit, before, of course, this hearing.

Judge Rives: Can that be stipulated, Mr. Morgan?

Mr. Morgan: I have to find it, your honor. Perhaps you would let me see what you are talking about; I am sure I have got it in my file.

Mr. McBee: Mr. Austin deals with those four, I believe, two defendants, two plaintiffs, Hosea Williams and Thomas Houck.

Mr. Morgan: Yes, we will stipulate—we will stipulate with them with respect to their eighth defense, number one, the first sentence thereof, subject to the documents that have been introduced by the City, also.

Judge Rives: Just what does that mean? We can't follow it.

Mr. Morgan: It just says that after, it doesn't give any dates, these documents they just introduced do give the

dates; it says, "The defendant is without knowledge or information sufficient to form a belief as to the allegations of said paragraph, except that Hosea L. Williams and Thomas E. Houck, Jr., have each been briefly confined in the Birmingham Jail or Prison on respective charges of ordinance violations of the City of Birmingham, but each has pleaded guilty of such charges against him, was fined, [fol. 225] and has paid his fine and costs as to some of the charges, and all other charges under which such confinement was had have been dismissed and each of said defendants released and discharged from further custody on account of all such charges." We say that is correct, and the records he has also introduced are more definitive of the date this happened.

Mr. McBee: Mr. Austin, will you take the stand?

Judge Rives: Have you been sworn?

Witness Robert K. Austin: No, sir; I haven't been sworn.

The Clerk: You solemnly swear the testimony you give in this cause to be the truth, the whole truth, and nothing but the truth, so help you, God?

Witness Robert K. Austin: I do.

Robert K. Austin, a Defendant, having been duly sworn, testified as follows:

Direct examination.

By Mr. McBee:

Q. Mr. Austin, what is your present occupation?

A. I am the Chief Warden in the Birmingham City Jail.

Q. How long have you been such Chief Warden?

A. Since 1946.

Q. Have you had any responsibility in connection with the operation of the City Jail prior to that time?

[fol. 226] A. Yes, sir; I—in 1937 to 1942, I was Assistant Warden, and then I was inducted in service, and then in

the Military Police company, and for a year I ran stockade for the Government in San Severo and Manfredonia.

Q. While in the Army you were in duty or had served in connection with the prison system of the Army?

A. Yes, sir.

Q. And that was in what location?

A. Well, the—one of them was in San Severo, Italy; the other one was in Manfredonia, Italy.

Q. During the time you have served as Warden of stockade, Superintendent, or whatever the proper name would be; have you had any occasion to have any sort of a riot or anything of that kind?

A. No, sir; I have not.

Q. In the—in the main, have—have the facilities in which you have had responsibility been segregated, that is, according to race?

A. Yes, sir.

Q. Have you had any complaints by anybody, either in the military or in the civilian prisons or prison connected with or growing out of the fact that you have used more or less a general policy of segregation of race?

A. No, sir; I have not.

Q. Now, in any respect, does your problems differ from [fol. 227] those of, say, the Atlanta Federal Penitentiary system, or Penitentiary, or any other Federal penitentiary?

A. Yes, sir; definitely so, in that—

Q. In what respect?

A. —mine are—are short-time prisoners, or short-time institution, and we have a great influx of prisoners, around two thousand a month, come in there, and—

Q. What is your average daily population?

A. Well, we have from three hundred to four hundred daily population, just—

Q. And your total—total influx, or total personnel, I mean prison personnel, is—is—amounts to approximately two thousand a month?

A. Yes, sir.

Q. Now, what is about the average stay of the—of the prisoner in your—in your Jail?

A. I would say the average would be seven to fifteen days, because—

Q. Seven to fifteen days?

A. Yes, sir; because some get in and stay only a couple of hours.

Q. Of course, some stay longer?

A. Some stay longer; yes, sir.

Q. Now, with reference to the—to the manner of operating the Jail, are there some areas or activities which are on an integrated basis?

A. Yes, sir; I have—

[fol. 228] Q. What are those?

A. Sir?

Q. What are those?

A. I have—the trusties are integrated; I have work gangs that are integrated; I have the particular farm crew that is integrated; and also a work crew that makes concrete pipe is integrated; and then our maintenance crew is integrated to the extent that if you find, as Mr. Lee pointed out, you find an artificer or something you need, whether he is white or colored, we use him.

Q. In other words, you assign the prisoner to a duty that he is capable of performing, regardless of race?

A. Yes, sir.

Q. Now, with reference to the trusty system, do you have occasions when—when colored trusties will have responsibility or supervision over white prisoners and vice versa?

A. Yes, sir; at times there will be—they are kind of little straw bosses, but they are under supervision of a Warden.

Q. The trusty is nevertheless under general supervision of a Warden?

A. Yes, sir.

Q. Now, in reference to the eating facilities, are there occasions when the facilities for eating is integrated?

A. There are occasions when the trusties will eat in the same dining room, but I have never actually seen them eat at the same table.

Q. Do you have any prison rule that would prohibit them [fol. 229] from eating at the same table if they wanted to?

A. No, sir; if they wanted to, they could.

Q. They still could do it if they wish?

A. Yes, sir.

Q. Oh, yes; oh, yes; I should have asked you about this; do you have a particular problem in reference to incoming prisoners different from that which would be experienced by the—by the prisons, that is, the—like Kilby or like the Atlanta Federal Penitentiary?

A. Yes, sir; I will have, I would say, over fifty per cent of my prison population that comes in is for the use of alcohol, alcoholic beverages, and they are in a drunken condition, and cases like that, or something related to alcohol like disorderly conduct or something.

Q. Does that pose any particular problem in the matter of security and discipline of the prison?

A. Well, definitely, sir.

Q. In your judgment and opinion, would it aggravate the prison security problems to—and the safety of the prisoners to integrate the drunk tank, that is to say, put Negro prisoners and white prisoners together?

A. Yes, sir; I hope I am not the Chief Warden when it has to be done.

Q. In other words, in your judgment and opinion, it would—it would be a safety factor, a negative safety factor?

A. It certainly would.

[fol. 230] Mr. McBee: All right. That's all.

Mr. Morgan: Any questions?

Mr. Madison: (Shook head to indicate negative reply)

Cross examination.

By Mr. Morgan:

Q. Mr. Austin, you—you have, say, fifty per cent of the folks in your jail for drunk charges?

A. I would say an average of fifty; yes, sir.

Q. And what security precautions do you take for those people now?

A. I place them in separate cells.

Q. You mean separate because—on the basis of race, or do you have a big bull pen?

A. No, I have a big bull pen and a big bull pen for the colored.

Q. You still have some difficulty, don't you?

A. Oh, yes, sir.

Q. With white drunk folks hitting white drunk folks?

A. Yes, sir.

Q. And colored folks hitting colored folks?

A. I have an individual—I have in each bull pen, as we speak of, eight individual cells, that I place a man when he is first put in there, and then on each side, and my problem is that I—I have so many coming in, I can't keep them in there as long as I would like for them to be, and that poses a problem.

Q. How long do you keep them in there?

A. Well, it all depends; one person, it is according to [fol. 231] what condition he manifests, himself, when he comes in.

Q. You have no difficulty with respect to your trusties, your work gangs, your farm crews, and your maintenance crew, and even with respect to the sort of straw boss supervision I think you mentioned—

A. (Nodded to indicate affirmative reply)

Q. —of Negroes over white or the integration of the other operations I just mentioned?

A. No, sir; I have not.

Q. So your whole experience shows you that integration creates no problems, at least with respect to the categories of the prison population that you work with?

A. Which I work with; no, sir.

Q. In fact, because of your prison pop—your jail population and the number of people that go through that jail, quite probably more people in the State of Alabama have

contact with jails through your jail facility than any other jail in the State; is that not correct?

A. I would think so.

Q. Do you have any separation of visiting hours?

A. Yes, sir; due to the fact that we have a limited space for—for visitors. We don't allow our visitors to come inside the jail, as some do, to visit; ours is in a lobby, and it is a limited—

Q. Right; but you only allow whites there at one time and Negroes there a separate time; is that correct?

[fol. 232] A. That's right, sir.

Q. And you have no experience whatsoever with respect to Negroes being in the drunk tank after they come out of your individual cells along with whites in that same drunk tank, do you?

A. No, sir; I have not.

Mr. Morgan: Thank you.

Judge Rives: Mr. Austin, as I understand, your whole chief concern about integrating is as to your drunk tank?

Witness: Yes, sir; definitely, sir.

Judge Rives: And you—you don't have much problem except as to that?

Witness: Any foreseeable problem, I think I could work the other out if given time.

Judge Rives: All right, sir. Any other questions for Mr. Austin?

Mr. McBee: No, sir.

Judge Rives: You may come down, Mr. Austin. Any other witnesses, gentlemen?

Mr. McBee: No, sir; that's all.

Judge Rives: Any other documentary evidence to be introduced?

Mr. Morgan: No.

Judge Rives: Both sides rest; all sides rest, then. You have got pretty complete briefs in the case, we have had an opportunity to read over. You gentlemen wish to argue the case?

[fol. 233] Mr. Morgan: At the Court's pleasure, your honor, we—but I'm anxious either way; if it would help the Court—

Judge Rives: I don't want to cut off on you, but I think we have pretty well—

Mr. McBee: There is only one thing we did want to comment on, your honor; we did not get the brief of the complainants, the last brief, until this morning. We would like to comment on the fact that—and remind the Court, I am sure the Court is familiar with it, but the—a point that was raised, as we understand it, in this brief is that at the time the suit was filed the two plaintiffs, Williams, I believe, and Houck, were subject to the possibility of being returned to the City Jail of the City of Birmingham.

Judge Rives: You want a few days to answer that brief?

Mr. McBee: Beg your pardon?

Judge Rives: Do you wish a few days to answer that brief?

Mr. McBee: Yes, sir; we would like to have the opportunity to do that.

Judge Rives: Would five days be sufficient?

Mr. McBee: Yes, sir; I think so.

Judge Rives: All right.

Mr. Madison: Your honor, I don't wish to argue the case, but would like to call the Court's attention to one section of Section 4 as set forth in our brief in full, and it [fol. 234] deals with the authority in Section 4 of Title 45 of the Code of Alabama, one of the sections under attack, and it deals with the authority as to tubercular patients and management of hospitals. It is a very important Code section in that area. And down in there it says, "There shall be proper separation of convicts from free persons, whites from blacks." I think that Section, in order to preserve it, not tamper with it, could be well construed as proper separation would mean whether separation is based on race or color.

Judge Rives: What is that section?

Mr. Madison: Section 4 of Title 45. I know pretty well what it meant when it was adopted, but there is a difference now.

Judge Rives: Yes, sir. Proper segregation, you think, meant one thing then and might be construed to mean something else now?

Mr. Madison: Yes, sir.

Judge Rives: Any—

Mr. Morgan: We have no argument or response to make, your honor.

Judge Rives: We will take the case, then, under submission on all questions, then, gentlemen.

Mr. Fletcher: Judge, if I might—

Judge Rives: Yes.

Mr. Fletcher: At the pretrial hearing, Judge Johnson requested that we submit decrees, forms of decree, which [fol. 235] I have filed with the Bailiff this morning; I didn't—

Judge Johnson: That was what you proposed as far as the remedies are concerned—

Mr. Fletcher: Right.

Judge Johnson: —to help us.

Judge Lynne: Mr. Clerk, here is an Exhibit.

Mr. Morgan: Mr.—no, he just wanted to give you this.

Judge Johnson: Just on what they proposed about how fast it goes and so forth.

Judge Rives: Very well, then, gentlemen; Court will stand in recess until further order.

Court Reporter's certificate to foregoing transcript (omitted in printing).

PRISON POPULATION
NOVEMBER 19TH 1966

STATE OF ALABAMA
BOARD OF CORR[illegible]TIONS

INSTITUTION	STATE				COUNTY				TOTAL	HWY QUOTA
	WM	CM	WF	CF	WM	CM	WF	CF		
CAMP ALEX CITY		37							37	56
CAMP AUBURN		53							53	60
CAMP CHATOM		24							24	52
CAMP CHILDERSBURG		40							40	53
CAMP CULLMAN		58							58	63
CAMP DOTHAN		47							47	61
CAMP EIGHT MILE		40							40	50
CAMP ELBA		42							42	71
CAMP EVERGREEN		30							30	52
CAMP FAYETTE		30							30	56
CAMP FORT PAYNE	42								42	60
CAMP GROVE HILL		26							26	77
CAMP GUNTERSVILLE		45							45	57
CAMP HAMILTON		40							40	60
CAMP HOLLIS		34							34	53
CAMP LIVINGSTON		25							25	50
CAMP LOXLEY		39							39	73
CAMP MAPLESVILLE		32							32	48
CAMP SELMA	1	36							37	62
CAMP THOMASTON		75							75	57
CAMP TROY		76							76	82
CAMP TUSCALOOSA		41							41	62
CAMP UN SPRINGS		47							47	68
TOTAL ROAD CAMPS	43	917							960	1,383

STATE OF ALABAMA [fol. 238]

BOARD OF CORR TIONS

INSTITUTION	STATE				COUNTY				TOTAL	HWY QUOTA
	WM	CM	WF	CF	WM	CM	WF	CF		
ATMORE PRISON	48	1,050							1,098	
DRAPER PRISON	517	92				1			610	
KILBY PRISON	597	30							627	
J TUTWILER PRISON		1	35	97					133	
CATTLE RANCH	18								18	
TRUSTY BARRACKS	162	154							316	40
F L YOUTH CENTER	26								26	
KILBY HOSPITAL	12	34							46	
QUARENTINE REC&CT	34	73							107	
TOTAL ASSIGNED	1,457	2,351	35	97		1			3,941	1,423
NEW NOT ASSIGNED	54	60							114	
GRAND TOTAL	1,511	2,411	35	97		1			4,055	1,423
		1511		2411						
		35		97						
		1546		2508						
				2						
				2510						
TOTAL ROAD CAMPS									960	*
TRUSTY BARRACKS									40	*
TOTAL HWY ROADS									1,000	*

[fol. 239]

CLERK'S CERTIFICATE AS TO ORDER IN CASE

CIRCUIT COURT

Tenth Judicial Circuit of Alabama

No. 28664

THE STATE OF ALABAMA,
JEFFERSON COUNTY.

I, the undersigned, as Clerk of said Circuit Court, in and for said State and County, do hereby certify that in the cause of City of Birmingham Plaintiff, vs. Thomas E. Houck Jr. Defendant, the following order was made, to-wit:

May 25, 1966, Nolle Prossed without costs, recommendation of Wm. C. Walker, Assistant City Attorney.

Elias C. Watson, Jr., Circuit Judge

Witness my hand, this the 23rd day of November 1966

/s/ JULIAN SWIFT
Clerk Circuit Court.

[fol. 240]

THE STATE OF ALABAMA,
JEFFERSON COUNTY.

I, Julian Swift, Clerk of the Circuit Court of the Tenth Judicial Circuit of Alabama, do hereby certify that said Court is a Court of Record, having a Clerk and a Seal, and that I am the qualified Clerk of said Court, and the keeper of said Seal. I further certify that Honorable Wallace Gibson is a duly commissioned Judge of the Circuit Court of the Tenth Judicial Circuit of Alabama, and under the Laws of said State all of his official acts as such Judge are entitled to full faith and credit. I further certify that his official signature to the certificate is his genuine official signature and in due form.

IN TESTIMONY WHEREOF, I hereunto affix my official signature and Seal of the Court, at Birmingham, Alabama, this the 23rd day of November, 1966.

/s/ JULIAN SWIFT
Clerk of the Circuit Court of the
Tenth Judicial Circuit of Alabama.

THE STATE OF ALABAMA,
JEFFERSON COUNTY.

I, Wallace Gibson, Judge of the Circuit Court of the Tenth Judicial Circuit of Alabama, do hereby certify that the same is a Court of Record, having a Clerk and Seal, and that Julian Swift is the qualified Clerk of said Court, and the keeper of the Seal thereof, and that his official signature to the foregoing certificate is his genuine official signature with the Seal of said Court affixed.

Witness my hand and official signature, at Birmingham, Alabama, this the 23rd day of November, 1966.

/s/ WALLACE GIBSON
Judge of the Circuit Court of the
Tenth Judicial Circuit of Alabama.

[fol. 241]

CLERK'S CERTIFICATE AS TO ORDER IN CASE

CIRCUIT COURT
Tenth Judicial Circuit of Alabama
No. 28713

THE STATE OF ALABAMA,
JEFFERSON COUNTY.

I, the undersigned, as Clerk of said Circuit Court, in and for said State and County, do hereby certify that in the cause of City of Birmingham Plaintiff, vs. Thomas E. Houck Jr. Defendant, the following order was made, to-wit:

May 25, 1966, Nolle Prossed without costs, recommendation of Wm. C. Walker, Assistant City Attorney.

Elias C. Watson, Jr., Circuit Judge

Witness my hand, this the 23rd day of November 1966

/s/ JULIAN SWIFT
Clerk Circuit Court.

[fol. 242]

THE STATE OF ALABAMA,
JEFFERSON COUNTY.

I, Julian Swift, Clerk of the Circuit Court of the Tenth Judicial Circuit of Alabama, do hereby certify that said Court is a Court of Record, having a Clerk and a Seal, and that I am the qualified Clerk of said Court, and the keeper of said Seal. I further certify that Honorable Wallace Gibson is a duly commissioned Judge of the Circuit Court of the Tenth Judicial Circuit of Alabama, and under the Laws of said State all of his official acts as such Judge are entitled to full faith and credit. I further certify that his official signature to the certificate is his genuine official signature and in due form.

IN TESTIMONY WHEREOF, I hereunto affix my official signature and Seal of the Court, at Birmingham, Alabama, this the 23rd day of November, 1966.

/s/ JULIAN SWIFT
Clerk of the Circuit Court of the
Tenth Judicial Circuit of Alabama.

THE STATE OF ALABAMA,
JEFFERSON COUNTY.

I, Wallace Gibson, Judge of the Circuit Court of the Tenth Judicial Circuit of Alabama, do hereby certify that the same is a Court of Record, having a Clerk and Seal, and that Julian Swift is the qualified Clerk of said Court, and the keeper of the Seal thereof, and that his official signature to the foregoing certificate is his genuine official signature with the Seal of said Court affixed.

Witness my hand and official signature, at Birmingham, Alabama, this the 23rd day of November, 1966.

/s/ WALLACE GIBSON
Judge of the Circuit Court of the
Tenth Judicial Circuit of Alabama.

[fol. 243]

No. 28712

THE STATE

CITY OF BIRMINGHAM

vs.

THOMAS E. HOUCK JR.

Appealed from Recorder's Court

(Assaulting an Officer)

Honorable Elias C. Watson, Jr., Judge Presiding

This the 25th day of May, 1966, came Wm. C. Walker, who prosecutes for the City of Birmingham, and also came the defendant in his own proper person and by attorney, and the defendant being duly arraigned upon the oral Complaint of the City of Birmingham, charging the de-

fendant with the offense designated in the Appeal Bond from the Recorder's Court of the City of Birmingham, Alabama, in this cause, for his plea thereto says that he is guilty of interfering with an officer in performance of duties, as charged in said oral Complaint, and on recommendation of City Attorney Walker, the Court assessed a fine of One Hundred Dollars ($100.00) and costs against said defendant. It is therefore considered by the Court, and it is the judgment of the Court that said defendant is guilty of interfering with an officer in performance of duties, as charged in said oral Complaint, and that he pay a fine of One Hundred Dollars ($100.00) and costs of this cause.

The said defendant paid said fine and costs to the Clerk and was discharged.

[fol. 244]

CERTIFICATE OF JUDGMENT UNDER ACTS OF CONGRESS.

CIRCUIT COURT

Tenth Judicial Circuit of Alabama.

THE STATE OF ALABAMA
JEFFERSON COUNTY

I, JULIAN SWIFT, Clerk of the Circuit Court of the Tenth Judicial Circuit of Alabama, in and for said State and County, do hereby certify that the foregoing page contains a full, true and correct copy and exemplification of the Judgment Entry of the cause of City of Birmingham Plaintiff, vs. Thomas E. Houck Jr. Defendant, Case No. 28712, as appears of record in said Court.

Witness my hand and the seal of said Court, this 22nd day of November 1966

/s/ JULIAN SWIFT
Clerk of Circuit Court of the
Tenth Judicial Circuit of Ala.

(Seal)

CIRCUIT COURT

Tenth Judicial Circuit of Alabama.

THE STATE OF ALABAMA
JEFFERSON COUNTY

I, Geo. Lewis Bailes, one of the Judges of the Circuit Court of the Tenth Judicial Circuit of Alabama, do hereby certify that JULIAN SWIFT, whose name is signed to the preceding certificate, is the Clerk of the Circuit Court of the Tenth Judicial Circuit of Alabama, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the said exemplification is the seal of said Circuit Court, and that the attestation thereof is in due form of law.

This 22nd day of November 1966

/s/ GEO. LEWIS BAILES
One of the Judges of the Circuit Court
of the Tenth Judicial Circuit of Ala.

CIRCUIT COURT

Tenth Judicial Circuit of Alabama.

THE STATE OF ALABAMA
JEFFERSON COUNTY

I, JULIAN SWIFT, Clerk of the Circuit Court of the Tenth Judicial Circuit of Alabama, do hereby certify that Hon. Geo. Lewis Bailes whose name is signed to the foregoing certificate, is one of the Judges of the Tenth Judicial Circuit of Alabama, duly elected and sworn, and that the signature of said Judge is genuine.

In witness whereof, I have hereto set my hand and affixed the seal of said Court, this 22nd day of November 1966

/s/ JULIAN SWIFT
Clerk of Circuit Court of the
Tenth Judicial Circuit of Ala.

(Seal)

[fol. 245]

No. 28725

THE STATE

CITY OF BIRMINGHAM

vs.

HOSEA L. WILLIAMS

Appealed from Recorder's Court

(Reckless Driving)

Honorable Elias C. Watson, Jr., Judge Presiding

This the 25th day of May, 1966, came Wm. C. Walker, who prosecutes for the City of Birmingham, and also came the defendant in his own proper person and by attorney, and the defendant being duly arraigned upon the oral Complaint of the City of Birmingham, charging the defendant with the offense designated in the Appeal Bond from the Recorder's Court of the City of Birmingham, Alabama, in this cause, for his plea thereto says that he is guilty of speeding, as charged in said oral Complaint, and on recommendation of City Attorney Walker, the Court assessed a fine of Twenty-five Dollars ($25.00) and costs against said defendant. It is therefore considered by the Court, and it is the judgment of the Court that said defendant is guilty of speeding, as charged in said oral Complaint, and that he pay a fine of Twenty-five Dollars ($25.00) and costs of this cause.

The said defendant paid said fine and costs to the Clerk and was discharged.

[fol. 246]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

DEFENDANT'S EXHIBIT No. 2

CERTIFICATE OF JUDGMENT UNDER ACTS OF CONGRESS.

CIRCUIT COURT

Tenth Judicial Circuit of Alabama.

THE STATE OF ALABAMA
JEFFERSON COUNTY

I, JULIAN SWIFT, Clerk of the Circuit Court of the Tenth Judicial Circuit of Alabama, in and for said State and County, do hereby certify that the foregoing page contains a full, true and correct copy and exemplification of the Judgment Entry of the cause of City of Birmingham, Plaintiff, vs. Hosea L. Williams Defendant, Case No. 28725, as appears of record in said Court.

Witness my hand and the seal of said Court, this 22nd day of November 1966

/s/ JULIAN SWIFT
Clerk of Circuit Court of the
Tenth Judicial Circuit of Ala.

(Seal)

CIRCUIT COURT

Tenth Judicial Circuit of Alabama.

THE STATE OF ALABAMA
JEFFERSON COUNTY

I, Geo. Lewis Bailes, one of the Judges of the Circuit Court of the Tenth Judicial Circuit of Alabama, do hereby certify that JULIAN SWIFT, whose name is signed to the

preceding certificate, is the Clerk of the Circuit Court of the Tenth Judicial Circuit of Alabama, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the said exemplification is the seal of said Circuit Court, and that the attestation thereof is in due form of law.

This 22nd day of November 1966

/s/ Geo. Lewis Bailes
One of the Judges of the Circuit Court
of the Tenth Judicial Circuit of Ala.

Circuit Court

Tenth Judicial Circuit of Alabama.

The State of Alabama
Jefferson County

I, Julian Swift, Clerk of the Circuit Court of the Tenth Judicial Circuit of Alabama, do hereby certify that Hon. Geo. Lewis Bailes whose name is signed to the foregoing certificate, is one of the Judges of the Tenth Judicial Circuit of Alabama, duly elected and sworn, and that the signature of said Judge is genuine.

In witness whereof, I have hereto set my hand and affixed the seal of said Court, this 22nd day of November 1966

/s/ Julian Swift
Clerk of Circuit Court of the
Tenth Judicial Circuit of Ala.

[fol. 248] Clerk's certificate to foregoing transcript (omitted in printing).

[fol. 249]

SUPREME COURT OF THE UNITED STATES

No. 1208, October Term, 1966

FRANK LEE, Commissioner of Corrections of Alabama, et al., Appellants,

v.

CALIPH WASHINGTON, et al.

Appeal from the United States District Court for the Middle District of Alabama.

ORDER NOTING PROBABLE JURISDICTION—May 29, 1967

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted and the case is placed on the summary calendar.